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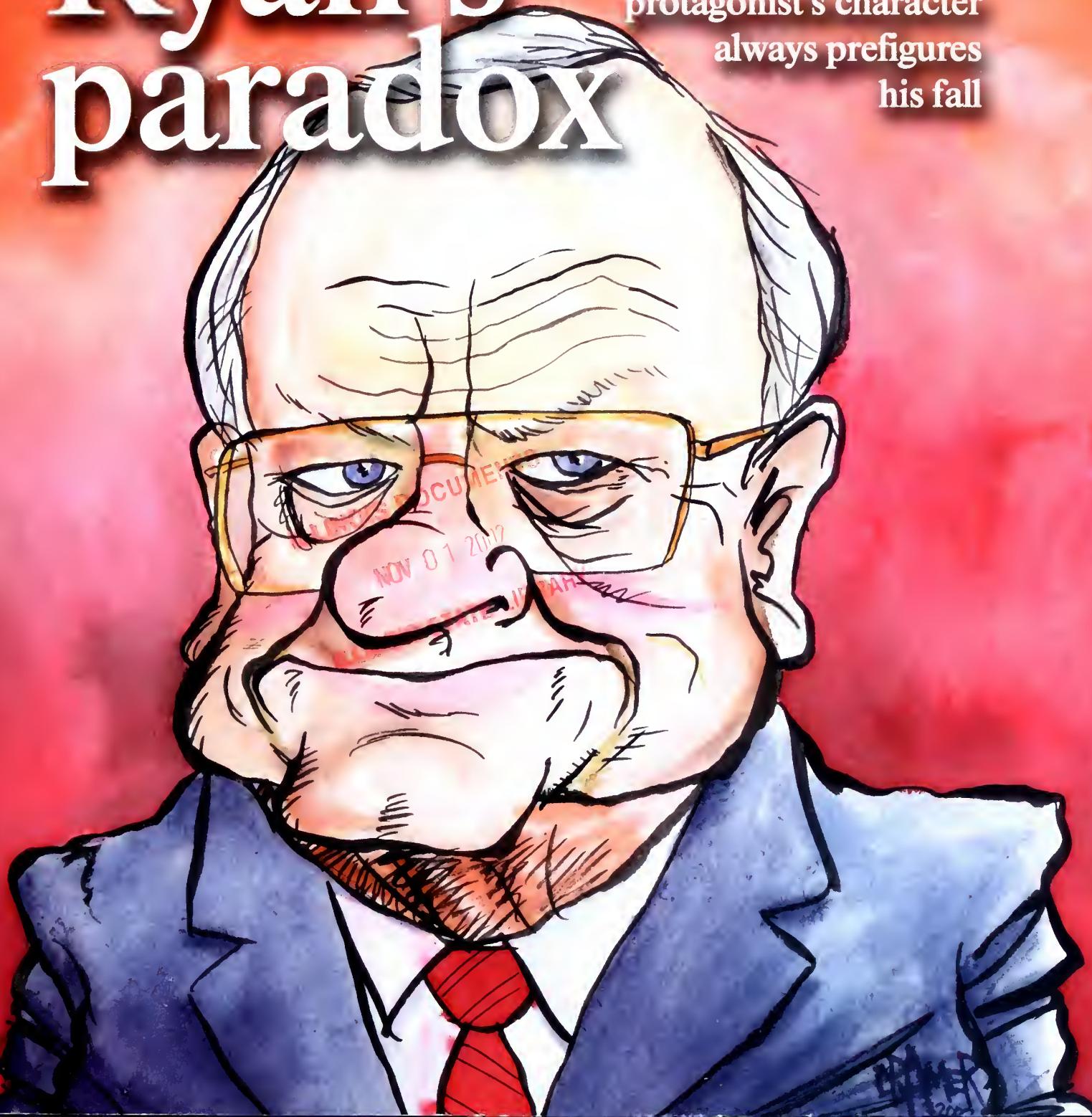
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Illinois Issues

A publication of the University of Illinois at Springfield

Ryan's paradox

In a classic tragedy, the protagonist's character always prefigures his fall



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Peggy Boyer Long



It's time to rethink and recast the death penalty statute. Or scrap it

by Peggy Boyer Long

Charles Walker went first. Each of us who watched him die on that September morning in 1990 had our own reasons for being there.

As a Statehouse reporter for public radio some 14 years earlier, I had watched legislators approve, and the governor sign, the 1977 law reinstating capital punishment. Walker's execution was the first under that law, and the first in Illinois in 28 years. I had, I reasoned,

reported on the policy as it was approved by the Illinois Supreme Court and the U.S. Supreme Court rejected last-minute efforts at delay.

We arrived at the prison sometime before dusk. After officials checked the name of each media witness, reporters were escorted through a series of locked gates, patted down and held in a guarded area for several hours. We were issued a pad of paper and something to write with, then marched single-file to the execution chamber.

inconsistently, raising concerns about arbitrariness. And, over the years, the statute governing capital punishment in Illinois has been larded with so many types of murder that qualify someone for a death sentence that it can be argued the penalty isn't restricted to the most heinous crimes. In 1977, there were seven death-qualifying factors. Now there are 20. Most of them were added in the decade after Walker's execution. No new reasons for mercy have ever been added.

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As a Statehouse reporter for public radio some 14 years earlier, I had watched legislators approve, and the governor sign, the 1977 law reinstating capital punishment. Walker's execution was the first under that law, and the first in Illinois in 28 years. I had, I reasoned, reported on the policy as it was approved; I should be willing to report firsthand as it was carried out.

In retrospect, Walker's crime seems less heinous than senseless. He spent half his adult life in a drunken rage. He spent the other half in the state pen, beginning a stint at Menard before the age of 20. Walker committed four felonies and served four prison terms between the winter of 1958 and the summer of 1983. That's the summer he met and killed Kevin Paule and Sharon Winker, an engaged couple in their 20s, near Mascoutah in southwestern Illinois. He took two lives for little more than \$40 in beer money.

On the afternoon before he was executed, a colleague and I drove to the old Stateville prison near Joliet. We were glued to the radio the whole way. Gov. James Thompson, who had put his name to the law under the glare of national television lights, had already rejected pleas to commute the sentence. And in the hours before the execution,

the Illinois Supreme Court and the U.S. Supreme Court rejected last-minute efforts at delay.

We arrived at the prison sometime before dusk. After officials checked the name of each media witness, reporters were escorted through a series of locked gates, patted down and held in a guarded area for several hours. We were issued a pad of paper and something to write with, then marched single-file to the execution chamber.

After what seemed an endless wait, curtains opened to reveal Walker on a glassed-in stage, covered with a sheet and strapped to a gurney. An intravenous tube in his right arm was attached to a machine, hidden from view, that would deliver lethal doses of sodium pentathol, pancuronium bromide and potassium chloride. The first was to put him to sleep, the second to stop his breathing and the third to stop his heart.

Walker looked at us, gave a slight nod and turned to stare at the ceiling. I reported that the process seemed disconcertingly clinical, and that it seemed to go without a hitch.

Walker was pronounced dead at 12:12 a.m. on the 12th.

Things were so much simpler then. There was no question Walker was guilty. He wanted to die. And the sentencing statute was narrowly drawn.

Much has changed. Prosecutors have sent innocent men to Death Row. There's evidence the death sentence is applied

inconsistently, raising concerns about arbitrariness. And, over the years, the statute governing capital punishment in Illinois has been larded with so many types of murder that qualify someone for a death sentence that it can be argued the penalty isn't restricted to the most heinous crimes. In 1977, there were seven death-qualifying factors. Now there are 20. Most of them were added in the decade after Walker's execution. No new reasons for mercy have ever been added to the statute.

After 25 years, it's time to rethink and recast Illinois' death penalty statute. Or scrap it. That won't be an easy assignment. It took policymakers five years and two tries to craft a law that would meet court standards — and they faced the political pressures of having no capital punishment at all.

In 1972, the U.S. Supreme Court swept away death penalty laws throughout the nation, including this state's, ruling capital punishment had been applied capriciously and challenging the states to wrestle with whether it is "cruel and unusual." The justices then decided in a series of cases that capital punishment can be used if a statute specifies which types of murder are covered and narrowly defines the standards by which the law can be applied.

Now, Illinois' capital punishment system is reaching another crossroad. Some have called it a crisis. Gov. George Ryan is even considering whether to take

REFORMS

Eighty-five suggestions for improving the state's death penalty system went to policymakers. Gov. George Ryan's Commission on Capital Punishment offered the suggestions in April after a top-to-bottom inspection that took a little more than two years.

Among the recommendations:

- An independent state forensic laboratory should be created, operated by civilian personnel, with its own budget, separate from any police agency or supervision.
- There should be a review of death eligibility by a statewide committee.
- If a judge doesn't agree with a jury's decision to impose a death sentence, that sentence should be changed to natural life.

the unprecedented step for this state of commuting to life in prison the sentences of everyone on Death Row (see pages 6 and 39). Nearly three years ago, he did take the unprecedented step of halting executions until the system could be fixed.

How bad is it? Eleven men were executed under the 1977 law after Walker got his wish. John Wayne Gacy, who has been called the worst mass murderer in U.S. history, was second. Andrew Kokoraleis, who was executed for rape, torture and murder, was the last. But another 13 men walked off Death Row. Some were innocent.

The governor appointed a commission, including judges, prosecutors and defense attorneys, to assess the extent of the problem. They spent two years at the task, finishing in April. We have reported on the findings and recommendations in other issues of the magazine (see October 2001, page 30, and June, page 17). And the full report is available at www.idoc.state.il.us/ccpl/ccp/reports/commission_reports.html. At more than 200 pages, it makes for some serious, and seriously important, reading.

Where to now? Lawmakers could, as Ryan hopes, take up some of those 85 suggested reforms as early as this month when they return for their fall veto session.

But whenever this state's politicians decide to face the issue head on, they could bring order to their deliberations simply by considering first some of the recommendations aimed at addressing problems identified in those 13 wrongful conviction cases. The governor's commission hit on a few common themes in those cases: little solid evidence connecting those who were charged with the crime; uncorroborated testimony of so-called jailhouse snitches; and questions about the reliability of eyewitness evidence.

The group recommends, for starters, that no murderer be sentenced to death if the conviction was based upon the uncorroborated testimony of a single eyewitness or accomplice. And that the uncorroborated testimony of a snitch concerning the confession or admission

of the defendant not be the sole basis for the imposition of a death sentence.

Commission members were not unanimous on some suggestions, including videotaping interrogations of suspects and modifying procedures for line-ups and photo spreads.

But the most politically controversial recommendation, aimed at narrowing eligibility for the death sentence, got unanimous agreement: The current list of 20 circumstances for eligibility should be eliminated in favor of a simpler, narrower group of criteria.

A majority recommended just five well-defined factors: The death penalty, they argued, should be applied only in cases where the defendant has murdered two or more people; or where the victim was a police officer or firefighter; or an officer or inmate at a correctional institution; or was murdered to obstruct the justice system; or was tortured in the course of the murder. The commission made a point of eliminating the catch-all category of murder in the course of a felony. "While commission members believe that all murders are very serious," they wrote, "the death penalty should be reserved for only the most heinous of these crimes."

They recommended banning executions of the mentally retarded and expanding possible reasons for mercy. A narrow majority would even favor abolishing the death penalty, some of them on moral grounds.

I'm free now to report that I'm against the death penalty on moral grounds, too. I was when I watched passage of the new law, when I interviewed an early resident of Death Row, when I was allowed to examine the electric chair, a primitive relic that was phased out later, and when I watched the state kill Charles Walker with a scientifically calibrated stew of drugs.

But the vast majority of Illinoisans don't agree. The most thoughtful of those folks argue society should express condemnation of the most terrible crimes. And they believe that if we do so, we should make certain the punishment is fair, just and accurate.

Peggy Boyer Long can be reached at Peggyboy@aol.com.

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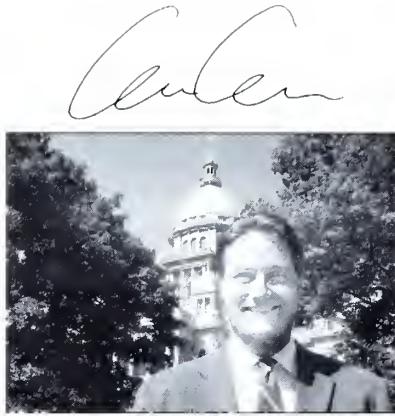
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The governor ignited a fire by musing aloud about his clemency powers

by Aaron Chambers

Edward Spreitzer doesn't contest the guilty verdict against him. Nor does he dispute the horrid nature of the murder that landed him on Death Row. He simply argues the justice system that tried and convicted him is broken, just as Gov. George Ryan says it is, and that, therefore, his death sentence should not stand.

This is a bold legal argument, to say the least. But the courts won't be deciding this case: The governor will. And if any argument should persuade Ryan to grant relief to Spreitzer, this evidently is the one.

Ryan has repeatedly called this state's death penalty system "flawed" and "broken" since he declared a moratorium on executions almost three years ago. He said then that he feared an innocent person could be executed. In March, he went further, suggesting that he might commute to life in prison the sentences of every condemned inmate.

He ignited a fire. Last month, the Prisoner Review Board held hearings on whether to commute most death sentences in Illinois after lawyers representing those inmates rushed the board with petitions for clemency.

The vast majority of the petitioners weren't claiming actual innocence, though. Instead, their clemency requests rested on the governor's contention that the system is broken.

Last month, the Prisoner Review Board held hearings on whether to commute most death sentences in Illinois after lawyers representing those inmates rushed the board with petitions for clemency.

The board, which dedicated a room in its Springfield office for the stacks of paperwork associated with the hearings, heard the cases of most of the 159 men and women awaiting execution in Illinois. Its recommendations to the governor on whether to commute are confidential.

Separately, Ryan's office says he's considering the cases of 16 prisoners who refused to sign petitions. Under state law, the board could not hear these cases. He also is eyeing commutations for at least 6 people convicted of murder who expect to be sentenced to death.

"I may commute all the sentences. It's an option that I've got," he said in an interview with *Illinois Issues* shortly before the hearings. "You've got to remember that all the people sentenced

to Death Row were put there based on a system that's flawed, broken. That's my reason behind the possible mass commutation."

He added: "I think the public should understand these people aren't going to be released from jail. They're going to be put into jail for the rest of their life and they'll never get out."

Ryan insists that clearing Death Row by commuting every death sentence is just one option he's weighing. He also is pushing the General Assembly, during the veto session that begins this month, to enact recommendations made by a commission he formed to study the capital punishment process.

But by alluding, time and again, to the possibility of this extraordinary remedy, Ryan has led many to believe that granting a blanket commutation before he leaves office in January will be the grand finale of his reform efforts. He's not expected, however, to act until after the veto session.

The prospect has energized criminal defense attorneys. They could continue appealing their clients' murder convictions even if Ryan commutes the sentences, but they obviously would have a major hurdle behind them.

Prosecutors are enraged. They argue Ryan would be making a mockery of the criminal justice system where judges, prosecutors and defense counsel work tirelessly to ensure justice.

"The 'system is broken' mantra apparently is a handy mechanism to avoid doing your work," says Cook County State's Attorney Dick Devine. His office fought 91 clemency requests. "The criminal justice system is made up of cases; we're not producing widgets. You must look at each case."

While prosecutors wait for Ryan's decision, some are even mulling challenges to any commutations.

Yet the governor's clemency powers are broad and there doesn't appear to be any way most commutations could be reversed. It's not clear, however, whether the governor can commute death sentencees before they've even been imposed.

The Illinois Constitution says he "may grant reprieves, commutations and pardons, after conviction, for all offenses on such terms as he thinks proper." The provision continues: "The manner of applying therefore may be regulated by law." A corresponding statute dictates that application procedure. Basically, the law requires petitions to be addressed to the governor, signed by the petitioner and filed with the Prisoner Review Board. It refers to the Constitution by concluding that "nothing in this section shall be construed to limit" the governor's clemency power.

Spreitzer's case is an especially dramatic illustration of the tensions inherent in a potential mass commutation. There are two reasons: the extreme nature of his crime and his association with Andrew Kokoraleis, the last person to be executed in Illinois. The two belonged to a gang linked to the rape, torture and murder of at least 16 Chicago-area women in the early 1980s. Both were sentenced to death in DuPage County, where several of the murders took place.

But while Ryan approved the execution of Kokoraleis — the only execution during his four-year term — he could spare Spreitzer's life. John Kinsella, DuPage County's first assistant state's attorney, says this shows "the world of the death penalty in Illinois is a world of absurdity."

"They are among the most brutal and heinous crimes ever committed," Kinsella says. "For [Ryan] to turn

Gov. George Ryan has led many to believe that granting a blanket commutation before he leaves office in January will be the grand finale of his death penalty reform efforts.

around and say that Eddie Spreitzer deserves some sort of relief, and Kokoraleis didn't, doesn't make sense."

Nevertheless, Spreitzer's attorney claims his client's death sentence, imposed in 1986, should be vacated because Spreitzer did not benefit from the gubernatorial commission's recommendations made last spring or changes the Illinois Supreme Court made last year to rules governing the administration of the death penalty.

The court amended its rules in five areas. One change requires that most attorneys handling capital cases meet certain experience standards. The governor's commission made 85 recommendations, including a reduction in the factors that, together with murder, qualify someone for death. None of these proposed reforms have been approved by the legislature or signed into law.

"It would be unjust, in the face of the record of capital punishment in Illinois and the widespread reforms that the Ryan commission views as necessary to the creation of a just and reliable system, to allow the execution of any death sentence that was imposed under the prior, flawed regime," the attorney, Gary Prichard, wrote in Spreitzer's clemency petition. This record includes 13 men exonerated from Death Row since this state reinstated the death penalty in 1977 — one more than the number of people executed.

Prichard juxtaposed the facts of Spreitzer's case with several of these measures. For example, he wrote, the jury at Spreitzer's trial was not told that

the only alternative to a sentence of death was life imprisonment. The commission would require that juries in all capital cases be so instructed.

Prichard also wrote that Spreitzer was represented at trial by one assistant public defender. The high court's new rules require that two defense attorneys represent an indigent defendant in a capital case.

And Prichard suggested that Spreitzer isn't culpable because his IQ of 76 is "barely above the level that would qualify him as being mentally retarded."

Notably, he didn't suggest that his client is innocent. Nor did attorneys representing the vast majority of the clemency petitioners.

In fact, most of the petitions filed with the Prisoner Review Board mirrored a model petition circulated by Locke Bowman, director of the MacArthur Justice Center at the University of Chicago Law School.

The generic draft, which was available in electronic form, included spaces for attorneys to insert the facts of a specific case. It also included a basic argument for the commutation of a death sentence based upon the "unfairness of a death sentence" imposed without the benefit of the commission's recommended reforms, the high court's new rules or certain legislative enactments.

At one point in the model petition, Bowman urged attorneys to quote language from the gubernatorial commission's report. "It might also be good to get a newspaper quote from the governor on how the system is broken and fundamentally flawed," he wrote.

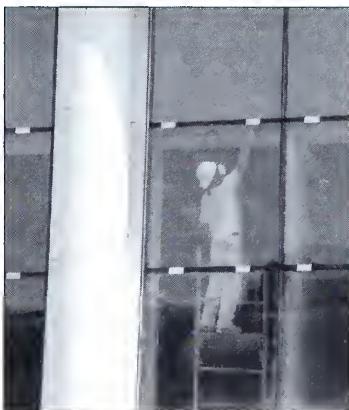
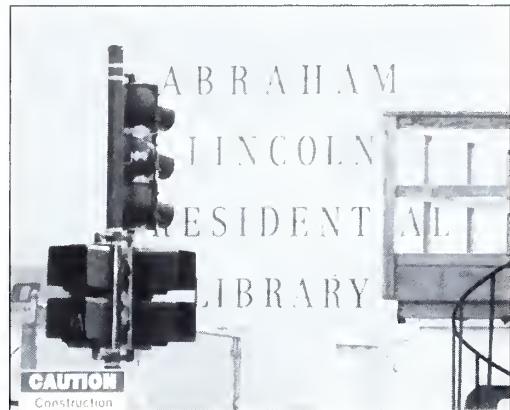
For their part, prosecutors uniformly argue that while the prisoners' claims may appear compelling, a case-by-case review shows they do not withstand substantial scrutiny. They pushed to individualize those cases.

In their response to Spreitzer's petition, for instance, DuPage County prosecutors attached color photographs of victims linked to the gang's murder spree. One shows the body of a woman found bound and naked in an alley. Another is of a woman lying facedown in a field, her body mangled. □

Aaron Chambers can be reached at statehousebureau@aol.com.

BRIEFLY

Photographs by Rodd Whelpley



In October workers were pushing to finish construction on the Abraham Lincoln Presidential Library for its dedication ceremony on November 18.

Ryan to open Lincoln library

When Gov. George Ryan presides over the dedication of the library portion of the Abraham Lincoln Presidential Library and Museum in Springfield this month, dignitaries will turn ceremonial keys to the door of a largely empty structure. Except for some finishing work, the building itself will be ready for the November 18 ceremonies. But, for now, the historical collection it will house remains safely below ground in the Illinois State Historical Library on the lower levels of the Old State Capitol building.

"We will move some items in for the public tours that will occur on the 18th. But none of the historic materials will have been moved at that time," says David Blanchette, spokesman for the Illinois Historic Preservation Agency, which is in charge of the library. "We have to check the climate control systems to make sure they work properly [and] attend to minor details before the rooms get full of books and things."

After the tours, the building will be closed until the collection has been moved. Blanchette estimates the new library will be up and running by January. "Although that's a very, very rough estimate," he cautions.

The dedication program will begin at 4:30 p.m. on the 18th at the building site at Sixth and Jefferson streets. Former CNN broadcaster Bernard Shaw is scheduled to serve as the master of ceremonies.

Delaying the dedication until the library is completely

ready would push the ceremony beyond Gov. Ryan's term. And he was one of the project's biggest supporters in the often politicized process of getting the library off the drawing board.

The 160,000-square-foot library and museum construction project will cost \$115 million dollars. Ten million of that will come from the city of Springfield, with state and federal sources picking up the bulk of the tab. But securing the funding wasn't easy. U.S. Sen. Peter Fitzgerald, an Inverness Republican, stalled authorization of up to \$50 million in federal funds while raising concerns about the state's historical penchant for issuing contracts on the basis of favoritism (see *Illinois Issues*, November 2000, page 36 and March 2001, page 17).

Administration of the library and museum became a political football as well when Ryan used his amendatory veto last year to deny the preservation agency's authority to manage the library (see *Illinois Issues*, September 2001, page 12). That action sparked a yearlong controversy over whether responsibility for the library would go to the University of Illinois or to the agency.

Last spring, legislators decided that the U of I's Springfield campus would become home to the Abraham Lincoln Presidential Center for Governmental Studies, the "academic arm" of the library and museum. Meanwhile, they split the preservation agency in half. One agency director will oversee the library and museum. A second will manage the rest of the agency's operations, including overseeing Illinois' historic sites.

Under this arrangement, the governor can hire and fire the director of the library and museum. But, as of mid-October, Ryan had left the position vacant. Robert Newtonson, the governor's chief of staff and the new executive

director of the library's foundation, had been mentioned as a candidate for the position. But he officially withdrew his candidacy in 2001, and in October of that year the governor appointed a blue-ribbon panel of scholars, museum administrators and a director of a presidential library to search for a qualified director (see *Illinois Issues*, November 2001, page 11). The panel has not made its deliberations public.

But when the dust — literal and political — finally settles, the state's 12-million-piece historical library collection, including 46,000 Lincoln-related holdings, will have some state-of-the-art breathing room.

The building rises three stories above its basement and features six and a half miles of shelving, more than doubling the current historical library's capacity. There will be more than twice as many cubic feet for manuscript storage, three times more room for microfilm storage and four times more room for storing audiovisual materials.

The new library will be user-friendly, with reading rooms, classrooms, computer labs and a 250-seat capacity multipurpose room.

The museum portion of the project is going up next to the library. It is scheduled to open in the summer of 2004.

Rodd Whelpley

Million-dollar professors

Of the 20 teachers nationwide who received million-dollar grants to help colleges and universities rethink the way they teach science to undergraduates, Illinois can claim two.

Yi Lu of the University of Illinois at Urbana-Champaign and Hilary Godwin of Northwestern University in Evanston were chosen by the Howard Hughes Medical Institute in Chevy Chase, Md., to receive \$1 million each over the next four years "to bring the creativity they have shown in the lab to the undergraduate classroom."

Yi Lu, an associate professor of chemistry at U of I for eight years, is introducing a four-year science curriculum that will get undergraduates involved in research early in their studies. By requiring students to choose a topic that interests them, then form a long-range plan to study it and select classes relative to the project, Lu hopes to maintain the curiosity students bring to class and help them do research as undergraduates that contributes to the body of scientific knowledge. With the grant, Lu expects to start the new teaching method with the spring semester.

Hilary Godwin, an associate professor of chemistry at Northwestern, plans to use her grant to involve freshmen in a project that will test lead levels in soil in Chicago. Focusing on underserved minority students, the summer program will teach basic skills that will give students a head start on freshman chemistry. At the same time, they will be mapping the city's lead levels to try to determine whether there is a correlation between lead in the soil and lead poisoning. In 1999, a study by Children's Memorial Hospital found that lead levels in Chicago children are among the highest in the nation.

"Clearly biology and the other sciences are becoming more important and relevant," says Peter Bruns, vice president for grants and special programs at the Hughes institute. "But we still are losing too many people in science majors and also not touching people who are not going to be science majors."

Beverley Scobell

Lincoln biographers and collectors to speak at research symposium

Springfield will host a number of events in conjunction with the dedication of the Abraham Lincoln Presidential Library.

On November 16 and 17, costumed characters will perform music and demonstrate what life was like during Lincoln's era. The event is called a "Looking for Lincoln" weekend.

Prior to the library dedication on November 18, the Illinois Historic Preservation Agency will sponsor a panel discussion on the latest in Lincoln research, writing and collecting. Scheduled speakers include:

- David Herbert Donald, a civil war historian and author of *Lincoln Reconsidered* and *Inside Lincoln's Cabinet*;
- Doris Kearns Goodwin, a noted presidential scholar;
- Louise Taper, a top collector of Lincoln manuscripts and artifacts;
- Robert Eckley, president of the Abraham Lincoln Association, a group of Lincoln scholars.

The presentation will take place at the Old State Capitol.

On November 19, the Abraham Lincoln Presidential Center for Governmental Studies will sponsor its first Lincoln Legacy Lecture. Speakers will discuss race relations in America in the 21st century.

The event will be held at Brookens Auditorium on the campus of the University of Illinois at Springfield.

As of mid-October, the event was tentatively scheduled to start at 7 p.m. Those interested in attending the free event may call 217-206-6576 for more details and to get a ticket.

The library dedication, the "Looking for Lincoln" weekend events and the panel discussion at the Old State Capitol are free and open to the public. No tickets are required.

Rodd Whelpley

BRIEFLY

Push on to make Stevenson house a historic landmark

"The Farm" was former Gov. Adlai Stevenson's retreat, though many of the world's rich, famous and powerful visited him there. Now it may become a tourist attraction and scholarly meeting place as a site on the National Register of Historic Places.

The board of directors for the Lake County Forest Preserves has launched that process and aims at also getting the Stevenson farm named a National Historic Landmark.

The property, located on the Des Plaines River in Mettawa, was donated to the forest preserve district in 1974 by friends of Stevenson who bought it after his death. The Lake County Health Department used it for offices until a couple of years ago.

A \$2 million restoration on the 40-acre farm, which Stevenson purchased in 1935, has begun. That project has received \$400,000 from the Illinois Historic Preservation Agency. Lake County officials expect the restoration to be completed in December 2003. They also plan to turn the stable and coach house into a lecture/exhibition hall and restore the house to what it was like when Stevenson entertained there in the 1950s. For more than two decades, he hosted such guests as



The Stevenson family gathered in the living room of the Mettawa house for a 1956 Life magazine story. Adlai III is holding his son Adlai IV, next to his wife Nancy, with their daughters Lucy and Katherine, who is held by Adlai II. John, youngest brother of Adlai III, is seated in the chair.

Eleanor Roosevelt, the Aga Khan, Robert and Ethel Kennedy, Jesse Jackson, journalists Alistair Cooke and Edward R. Murrow, and actresses Lauren Bacall and Lynn Fontanne.

Stevenson, who was governor of Illinois from 1949 to 1953, ran for the

presidency twice as the Democratic nominee, in 1952 and in 1956, losing both times to Dwight Eisenhower. In 1961, President John Kennedy, who visited the farm on at least two occasions, named Stevenson ambassador to the United Nations, the post he was serving in when he died in 1965.

County officials would like the home recognized for that abundance of public service.

"Adlai Stevenson's story is important," says Janet Gallimore, director of cultural resources for the county forest preserves. "His contribution to government, world peace and all the roles he played in the Kennedy Administration and at the United Nations are of local, national and international interest."

County officials would like to involve a state agency or university in a partnership that would use the property for a research institute or a scholar-in-residence program. Plans also include walking trails throughout the property that would be available to the public.

Beverly Scobell



In September 1969, at the last political rally held at the farm, the crowd learned of the death of U.S. Sen. Everett Dirksen. That marked the end of a split in the Democratic Party between the factions of Stevenson and Mayor Richard J. Daley, and assured the nomination of Adlai Stevenson III to replace Dirksen.

University of Illinois Extension helps farmers reduce pollution

After the combine has been cleaned and stored, Illinois grain producers will prepare the ground for next year's growing season. Many will apply nitrogen to their fields in the form of anhydrous ammonia. It's a dangerous job: A whiff of the invisible but noxious gas can drive a strong man to his knees, and any contact with bare skin will cause severe chemical burns.

Nitrogen also can be dangerous to the environment. High concentrations can be devastating to aquatic systems. The organic nutrient can cause algae to reproduce so rapidly that it sucks the oxygen out of the water, killing other life. In fact, the Illinois Environmental Protection Agency identifies agricultural runoff as the main source of nitrogen overload, comprising up to 75 percent of contamination in Illinois streams and rivers.

But the University of Illinois Extension's Council of Best Management Practices, a consortium of Illinois producers and agribusiness interests, has established several innovative programs over the past few years to help row-crop producers limit nitrogen leaching. And this fall the council is distributing soil thermometers to make the point.

Because ammonia can fuse to the much less stable chemical nitrite at warmer temperatures, it's critical that farmers make sure soil temperatures are below 50 degrees Fahrenheit before applying anhydrous ammonia. Applying anhydrous at or below the recommended temperature has the added benefit of allowing producers to maximize their investment because the chemical will more easily fuse to soil molecules.

In addition, the council has sent tank stickers reading "1.2 is the most you should do" to distributors statewide. The stickers indicated the result of U of I research, which showed that 1.2 pounds per expected bushel of corn yield was the maximum effective application. Applying more serves no purpose. When the soil contains more nitrogen than the plants can absorb, the remainder is left in the ground to be washed away into sensitive watersheds. "Since over-application is an unnecessary expense," says the council's George Czapar, "simply educating producers on the optimal application rate has been very effective."

The council, in cooperation with Trees Forever, also has initiated a program to educate landowners on the ways in which riparian buffer zones can help improve water quality by filtering chemical runoff. Participants in the pilot program will benefit from a 50-50 cost-sharing arrangement for expenses associated with watershed restoration, such as streambank stabilization, tree and grass plantings and the creation of wetland areas.

Czapar points to producers' responses to the council's initiatives as proof the Illinois agriculture community has been willing to take steps on its own to forestall regulatory oversight. If voluntary measures aren't successful in reducing the amount of nitrogen in the Illinois watersheds, legislation will be inevitable. And that, Czapar says, is something nobody wants. "Farmers will always prefer local solutions to top-down directives."

Joseph Andrew Carrier



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BRIEFLY

Prairie bounty

The produce from another prairie growing season is all but harvested. Here and there, some farmers are still selling Illinois apples, pumpkins, herbs or Christmas trees. With a grant from the U.S. Department of Agriculture, the Illinois Specialty Growers Association hopes to ensure that those producers will sell home-grown goods again come spring.

The Illinois Department of Agriculture received \$900,000 from the federal government to benefit specialty crop growers, a nearly \$96 million industry in the state. The specialty growers association will distribute \$400,000 of that amount to promote food safety, education and marketing.

Half of the association's grant was used to create a revolving loan fund to help the state's 130 cider producers purchase pasteurization equipment to meet new federal Food and Drug Administration rules requiring

producers to prove a specified level of bacteria kill. "The only system known to accomplish this is pasteurization," says Randy Graham, president of the Illinois State Horticulture Society.

Each year, cases of *E. coli*-related contamination are traced to unpasteurized apple cider, lowering consumer confidence and threatening the market, says Mosbah Kushad, a professor of horticulture at the University of Illinois at Urbana-Champaign. Pasteurization heat-treats the juice at a high enough temperature and for a long enough period to destroy bacteria. According to the FDA, 98 percent of all fruit and vegetable juices sold in the United States are pasteurized, but some processors believe pasteurization alters the flavor of the product and degrades its nutritional value.

Nevertheless, Illinois was one of the first states to train apple producers. The Illinois Department of Public Health, the University of Illinois and

the state horticulture society collaborated on a certification program that includes fruit selection, food safety and sanitation procedures.

The growers association also will give \$100,000 in grants to state community colleges and universities to maintain and improve greenhouses used in research on specialty crops. Another portion of the association's grant will fund a pilot program to evaluate the benefits of access to the state's LINK system of food stamp electronic debit cards for farmers markets.

Whether it's a crisp Fuji apple from Rendleman Orchards near Alto Pass or a Christmas tree from Cal & Shan's farm near Woodstock, Illinois officials hope to ensure that home-grown products remain safe and bountiful, even as the land sleeps.

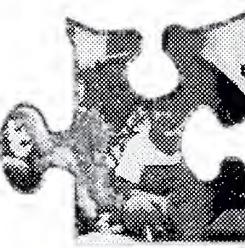
To find a specialty grower, go to the Prairie Bounty section of the association's Web site at www.specialty-growers.org.

Beverley Scobell

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State bans destructive fish

What's a top-level predator, lives in water but can breathe air, has scales and fins but can "walk" on dry land, and eats virtually anything it can find?

If this creature sounds like something out of a B-grade horror film, think again.

The northern snakehead

(*Channa argus*), an Asian fish

species with an appetite for destruction, has been placed on the list of potentially invasive species banned from the state by the Illinois Department of Natural Resources.



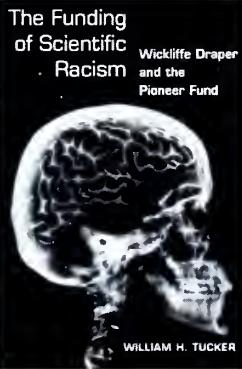
Though no snakehead has been spotted in the wild here in the Prairie State, the department decided to ban its sale, transportation or possession. According to Steve Shults, the agency's fisheries biologist, this species could pose a danger to Illinois' aquatic environment. It has the ability to wriggle across long stretches of dry ground and can reportedly survive out of water for days at a time. Further, it's a voracious predator that will eat other fish up to one third its size.

These two factors, says Shults, mean that "when they finish eating all the fish in one pond, they just move on to another." The northern snakehead, unlike some other species, is also able to adapt to a wide range of climates, allowing them to wreak environmental havoc over most of the eastern United States should they become endemic. This troubles Illinois biologists because the species would likely survive under the ice even in the harshest of winters.

Snakeheads have been popular as exotic species in many pet stores, meaning that quite a few of the fish could be in the homes of fish owners throughout the state. This, too, concerns Steve Shults, who adds this cautionary note for those who might own the fish as pets: "Please, whatever you do, don't flush them down the toilet."

Joseph Andrew Carrier

RACE & POLITICS



The Funding of Scientific Racism

Wickliffe Draper and the Pioneer Fund

WILLIAM H. TUCKER

Tucker implicates the Pioneer Fund in the sponsorship and support of campaigns to reverse the Brown decision and stop passage of the Civil Rights Act. He concludes that any results of genuine scientific value produced with the fund's support were incidental to its actual purpose: to provide ammunition for a campaign to prevent the full participation of blacks in society and the polity.

Hardcover, \$34.95

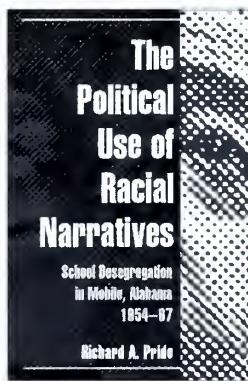
The Political Use of Racial Narratives

School Desegregation in Mobile, Alabama, 1954-97

RICHARD A. PRIDE

Exploring who benefits and who pays when different narratives are accepted as true, Pride offers a step-by-step account of how the culture of Mobile changed each time a new narrative was used to justify racial inequality.

Hardcover, \$39.95



Olney celebrates a century of white squirrels

Legend has it that a hunter placed two captured albino squirrels, a male and a female, on display in Jasper Bank's Saloon in downtown Olney.

That was October 12, 1902. The rest, as they say, is history.

One hundred years, several city ordinances and a state law later, that southeastern Illinois community of fewer than 10,000 people has a vibrant population of more than 200 of the snow-white, pink-eyed critters.

It celebrated that anniversary last month with a white squirrel blessing, a white squirrel parade and the dedication of a granite, white squirrel monument.

Albinism does have its disadvantages, including poor vision and hearing, so Olney residents go out of their way to make the city a safe haven.

So anyone driving through Olney, beware. By ordinance, squirrels have the right of way.

Joseph Andrew Carrier

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Ryan's paradox

In a classic tragedy, the protagonist's character always prefigures his fall

Analysis by Dave McKinney • Illustration by Mike Cramer



Paralyzed by scandal, yet one of the most active Illinois governors in recent memory. A political version of Donald Trump in his love of the deal, yet unable to focus on the all-important details. Loved by political insiders, yet increasingly mistrusted by much of the public. These are a few of the paradoxes that define George Ryan. The most poignant, though, is that this lifelong public servant had waited an entire career to become governor, yet was never able to become the leader he had hoped after moving into the Executive Mansion.

The dramatic arc of many tragedies can be traced to a turning point, one moment, clear in hindsight. And for Ryan it was January 27, 2000, two years into his term as the state's 39th chief executive. That's the day the *Chicago Tribune* ran a front-page story on an interview with Dean Bauer in the living room of Bauer's Kankakee home. The governor's friend of 40 years told the newspaper he expected to be indicted.

Ryan's former inspector general denied doing anything wrong. But it was clear federal prosecutors had a sound case against Bauer for failing to expose illegal exchanges of commercial driver's licenses for bribes, some of which ended up in Ryan's campaign fund while he was secretary of state.

The morning the story broke, Ryan was hosting an awards ceremony in the ballroom of the mansion to honor heroism by Illinois police officers. Before the final award, aides were scrambling to summon the Statehouse press corps for a statement. And Jeremy Margolis, the governor's special adviser, was anxiously prowling the hallway outside the ballroom, arms folded.

Bauer's fate had been the source of intense speculation for months, in and out of Ryan's administration. But on that morning the scandal moved right to the governor's doorstep.

After the ceremony, aides ushered the press into the governor's office on the ground floor. Ryan strode in

about half an hour later. Looking stern, he sat at his desk and read from a sheet of paper. "I'm angered because this corruption case has overshadowed the good things we've done in the office," he said. "But I'm angry at myself for not recognizing the problem a lot earlier. Unfortunately, there isn't a whole lot I can do. As a matter of fact, there's nothing I can do to change any of that except to accept the responsibility. This has been a very difficult lesson for me, but I've learned it and I've learned it very well."

It was the most blame Ryan had accepted for illegalities on his watch. But the moment of contrition passed quickly, and he refused further comment. Reporters could ask, and ask again, whether Bauer personally reported to him or whether the FBI had interviewed the governor. No matter. Ryan would not answer.

In one sense, it was quintessential Ryan, full of gruff and bluff. And yet, no single day in more than 30 years of public service so clearly underscored his personal and political weaknesses. Throughout that meeting with reporters, he was combative and evasive. And, following the advice of his lawyers, including Margolis, he came across as a public official who was less interested in leveling with the voters than in making sure he said nothing that might be useful to hungry prosecutors. Though he accepted blame, he offered no convincing reason for forgiveness.

What's the weakness in that? Simply put, it's this: Throughout his career, George Ryan has seldom felt the need to explain himself. He sees no reason to explain himself now, though he has achieved the state's highest post, and though a growing number of Illinoisans believe there are compelling reasons to know how he fulfilled his responsibilities.

Arguably, there have been other defining moments in Ryan's tumultuous four years as governor. But after that statement at the mansion, after Bauer was convicted, Ryan's job approval ratings plummeted to historic lows, never to rebound. A proud man, Ryan chose not to run for

re-election. In August, according to the *St. Louis Post-Dispatch*, his disapproval rating was 69 percent.

After a lifetime devoted to public service, George Ryan used up whatever benefit of the doubt Illinoisans had been willing to give him. Whatever sympathies they might have felt for an embattled governor dissipated in the cold January air.

The events of that day brought into sharper focus Illinois' most complex, and arguably most flawed, political figure in well over a generation.

On paper, few Illinois governors could have stepped into the executive office with better credentials. Ryan had chaired his Kankakee County board of supervisors. He had served in the legislature, including a stint as House speaker. He had served two terms each as lieutenant governor and secretary of state. But character traits that were useful throughout this long career — his love of the grand plan, his distaste for details, his unflinching loyalty to a small circle of political friends and his penchant for wheeling and dealing — trailed him right into the governor's mansion. Ryan was unwilling, or unable, to change, though his responsibilities changed, though Illinois changed. He remained an old-fashioned retail pol in a political era increasingly subject to media and voter scrutiny.

"If he's failed in one area, it's the way he's tried to shrug off his responsibilities for what happened in the secretary of state's office," says John Pelissero, a Loyola University political scientist who specializes in Illinois and Chicago politics.

"No one has been buying his argument that he didn't know what was going on, that he couldn't talk about it because it was in the courts. He's failed to address the very basic question people have about why, if his closest aides have been indicted or convicted in the scandal, he didn't know anything that was supposedly going on in his administration. I think he might have adopted a more candid approach, assuming it's true he had nothing to hide. Instead, he let the lingering questions and the continuing string of indictments

**From a policy standpoint,
the Kankakee Republican
managed to accomplish
much in four years.**

drag him down."

That isn't the way Ryan had mapped out his governorship during his early, giddy days in office. He relished the role of dealmaker. He worked the brass rail, where lobbyists ply their trade. He strode about the Capitol and onto the floors of the legislative chambers, employing a Midas touch. In one day, he single-handedly settled two long-simmering legislative leftovers from former Gov. Jim Edgar's administration: regulations for massive, environmentally troublesome hog farms and a managed care bill of rights.

By offering to broker a deal, Ryan later stole the stage in Decatur when Jesse Jackson took up the racially charged expulsions of high school students involved in a grandstand-clearing melee. There appeared to be little doubt in his first year that George Ryan was a governor on the go, an executive with a grasp of government.

From a policy standpoint, the Kankakee Republican managed to accomplish much in four years. His \$12 billion bricks-and-mortar program known as Illinois First, aimed at remedying years of unmet needs, rebuilt Chicago expressways and constructed new schools through an increase in license plate fees and liquor taxes. He ended decades of political spinning-in-place over rebuilding the lakefront home of the Chicago Bears by brokering a deal among the team, the city of Chicago and the state legislature. He twice led humanitarian visits to Cuba and met with dictator Fidel Castro to position such Illinois companies as Decatur's Archer Daniels Midland and Peoria's Caterpillar for future trade with the communist country. He defied noisy suburban mayors who were opposed to expansion of O'Hare International Airport by agreeing with Chicago Mayor Richard Daley to build a new

runway and realign others, breaking with decades of intransigence by Republican governors wary of losing political support in the GOP-dominated suburbs.

And, perhaps most important, he drew international acclaim for his efforts to reform the state's capital justice system after 13 Death Row inmates had been wrongly convicted. His moratorium on executions and the possibility of a blanket commutation for everyone on Death Row has generated talk of a Nobel Prize.

Because of these accomplishments and others, his closest supporters insist this was far from a lost governorship. "I think the record for the

last four years will speak for itself. The long list of thousands and

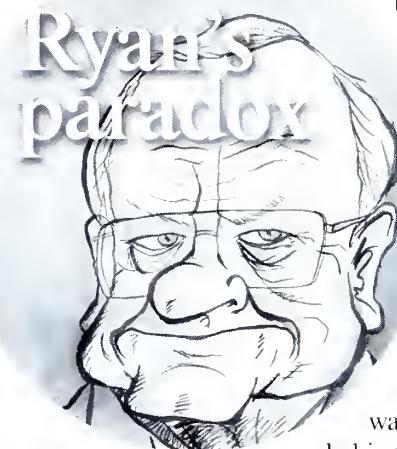
thousands of good things that got done around the state by him, over time, people will recognize. They really set a record that will be hard to match for anybody in the future," says businessman

John Glennon, who was one of the main behind-the-scenes architects of Illinois First, serving as a finance adviser to Ryan.

"It was a contrast to the previous eight years, in terms of health care, education, transportation, really the basic issues government is supposed to address. I think his record is extraordinary."

"In my view," says former Gov. James Thompson, Ryan's political mentor and personal lawyer, "and this is not popular to say, George Ryan has been one of the most effective governors in Illinois in my memory. The tragedy is his record from one office has precluded him from seeking re-election to the highest office, even though in four short years he's been an extremely successful governor. That's a tragedy. That is a political tragedy."

But in a classic tragedy, the protagonist's character always prefigures his



fall. A penchant for loyalty and an impatience with fine points are traits that were apparent early in George Ryan's career. They helped him rise through the ranks. Yet such traits can hinder a leader at the top. Now, though their governor has not been charged with wrongdoing, voters are left to wonder whether he turned a blind eye to or took part in corruption in his secretary of state's office, or whether he remained ignorant of illegal acts that took place on his watch.

Ryan refuses to explain.

Yet we do know how Ryan operated as he rose. He was able to amass his case of legislative trophies without displaying a strong mastery of details. And, as governor, it wasn't uncommon for him to divert questions to aides, particularly if those questions involved specifics over financial issues. Former Gov. Jim Edgar, who put no issues above the budget in terms of importance, routinely attended budget briefings with reporters, tackling most if not all of the questions himself. Ryan never attended these off-the-record sessions, leaving explanations to his budget director.

Those who knew Ryan well over the years often described him as someone who was not hands-on, and at times aloof. "Even as a legislator," says one top state Republican who asked not to be identified, "he wasn't great on details of legislation. He was much more, 'We have to get this done. We can sit down and give and take and move on.' Those are the kinds of things that probably play better in the legislative branch than in the executive branch of government. I always thought that was part of his dilemma in the secretary of state's office."

At times, the principles on which Ryan stood were unclear. He often called himself flexible, but detractors built a case against him as a politician who would say anything to get elected. He raised taxes to support Illinois First after campaigning against tax increases. He contradicted himself when he helped put together a gambling deal that

allowed owners of the shuttered Silver Eagle casino to move their operations to Cook County. In his campaign for governor, he did not favor opening Cook County to casinos, saying that amounted to an unacceptable expansion of gambling. As a candidate, he told suburban mayors he opposed expansion at O'Hare, including new runways, yet he changed once in office. What Ryan stood for, at times, depended on the moment and what was necessary to clinch the next big deal.

Partly because of his roots and partly because of his lengthy tenure in public office, Ryan embodied the archetypal cigar-chomping politician ready to do business in a backroom. The Kankakee Republican organization from which he and his older brother Tom emerged revolved around helping friends and family first, and maintaining an iron grip on power. Applicants for state jobs might get a boost if they car-shopped at the Cadillac dealership owned by the longtime county GOP chairman, Ed McBroom, a political tutor of Ryan's. Kankakee's politically connected could have traffic tickets torn up and could get the services of an on-duty police officer to shuttle them to and from one of Chicago's airports during out-of-town trips. And, political fundraising tickets were distributed among public employees with the expectation they would sell them or cover the price themselves. This is the old-style political climate that produced Lennington Small, the state's 26th governor, who was indicted and acquitted on charges of embezzling public funds.

Unwilling or unable to separate himself from his past, the governor brought what he learned to Springfield. He relished the perks of public office and the favors he could dole out to his pals. One of his initial concerns when he was handed the keys to the Executive Mansion was the possibility of installing an in-ground swimming pool, though a YWCA with a public pool was across the street. He also would mischievously bellow to reporters in his early days as governor, "Want a job?"

The resume

George Ryan's political career spans 34 years of service in local, legislative and state executive office.

His training ground, Kankakee, was a politically tight-knit community run by state Sen. Edward McBroom. With McBroom's help, Ryan, a pharmacist by trade, launched his public life on the county board. He remained on the board for six years, ascending to the chairmanship before moving to Springfield as a state representative.

Once in the Statehouse, he collected new political allies, including House Speaker W. Robert Blair, who offered Ryan entry into leadership, an unusual leap for a freshman. After four years in the legislature, he rose to minority leader. Four years later he became speaker.

Ryan's term as speaker, in the last 177-member House, was controversial. The Equal Rights Amendment remains the signature issue. Illinois was a key target in the unsuccessful effort to change the federal Constitution to prohibit discrimination on the basis of sex. Proponents pressed Ryan to allow a procedural change that would enable the amendment to be ratified with a simple majority instead of a three-fifths vote. But Ryan, who opposed the amendment, blocked the change. Militants wrote his name in blood on the floor of the Capitol as part of their protest.

Ryan then served two terms as lieutenant governor under Gov. Jim Thompson and two terms as secretary of state. Many of the legislative measures he embraced as secretary of state were enacted into law, most notably a stricter drunken driving standard. Defeated repeatedly since first being introduced in 1989, that law reduced the threshold for intoxication from .10 blood alcohol content to .08.

When he ran for governor, Ryan made history by choosing state Rep. Corinne Wood as his running mate, making her the first female lieutenant governor in Illinois.

He took the oath as governor in 1999.

The Editors

And yet it was his friends who caused problems for Ryan in the secretary of state's office. His backers insist he was duped, that his intense loyalty was abused.

Beneath the surface, what went on in Kankakee looked like small potatoes compared to the corruption in Ryan's secretary of state's office. So far, federal prosecutors have convicted 50 people in the Operation Safe Road probe, which delved initially into the illegal exchanges of truck licenses for bribes that went into Ryan's campaign fund. The investigation later shifted its focus to influence-peddling under Ryan and the alleged misuse of his state employees for political purposes.

Bauer was the first in Ryan's inner circle to fall, and indictments are pending against Ryan's former chief of staff and campaign manager Scott Fawell, close friend and businessman Larry Warner and former Springfield lobbyist Donald Udstuen.

Ryan's campaign fund also is under indictment for alleged racketeering.

"George Ryan has always been a very political animal," says Pelissero, the Chicago political scientist who has observed Ryan's career from afar. "He thought he understood how the political system worked in Illinois, that if you were going to be successful in political campaigns, there were certain things politicians did. It involved, certainly, having your people who'd come to benefit from your time in office continue helping you in your climb up the ladder. I think he surrounded himself with people who took that to an illegal level, in which there were huge conflicts of interest, the kickbacks, the bribe-taking, the use of state employees, the whole mess. Given his desire to get to be governor, I think he was willing to ignore too many of those likely infractions."

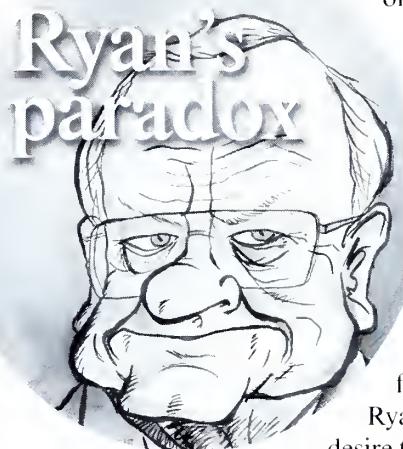
Examples of his favoritism toward political allies abounded. Ryan's secretary of state's office accelerated the practice of handing out select license plates to campaign donors.

It also became a comfy place for out-of-work politicians. He put former legislators, including Republican Roger Stanley of Streamwood and Democrat Ted Lechowicz of Chicago on his secretary of state payroll briefly, allowing them to enhance their state pension benefits. (Stanley also is among those under federal indictment for an alleged payoff scheme that netted him \$4 million in contracts from Metra, the suburban rail commuter agency.) Another friend Ryan helped was former Rep. Robert Brinkmeier, a Forreston Republican, whom Ryan gave a \$35,500, three-year gig to promote the secretary of state's speaker's bureau.

And as governor, Ryan appointed Bauer to a \$71,580-a-year job with the Illinois Department of Transportation that had been vacant for years. Like Stanley and Lechowicz before him, Bauer spent the exact amount of time it took to pad his pension before resigning. (He had to forgo that pension when convicted in the federal probe.) Of late, Ryan has taken heat for his desire to put chief of staff

Robert Newton and former press secretary Dave Urbanek in positions with the Abraham Lincoln Presidential Library and Museum. To some politicians, such disclosures would merit embarrassment, but Ryan's operation never backed off.

And yet it was his friends who caused problems for Ryan in the secretary of state's office. His backers insist he was duped, that his intense loyalty was abused. But the Operation Safe Road investigation has put the onus on Ryan. After all, he chose and relied on Bauer, Fawell and Warner. Ryan didn't inherit these people, all of whom were key members of an inner circle of advisers who have been either convicted or indicted in the federal probe. He handed the job of inspector general to Bauer in 1992, but Bauer admitted in a plea bargain with



prosecutors to quashing investigations that would politically embarrass his boss and political patron. Fawell allegedly deployed state workers to Ryan's political efforts and allegedly oversaw the corrupt fundraising mechanism in the secretary of state's office. After engineering Ryan's 1998 gubernatorial win, Fawell was tapped by Ryan for the \$195,000-a-year job of managing McCormick Place and Navy Pier in Chicago. And Warner, dubbed by associates as the governor's "right-hand man," allegedly shook down contractors in the secretary of state's office beneath Ryan's very nose.

"Any governor, no matter how smart, cannot possibly have within his personal grasp every element, every statistic, every program of a state as large and diverse as Illinois. I don't think Gov. Ryan delegated any more widely than his predecessors. You have to do that," former Gov. Thompson says. "On the other hand, it's fair to say George Ryan has trusted people who betrayed him. He's a very trusting guy, a very loyal guy, a very human guy. I think it's clear some people did take advantage of him."

Anyone who has observed Ryan in action sees someone who sometimes finds it difficult to say no. That may partly explain the rapid growth of the state budget during Ryan's four years and why his Illinois First program — which took political courage on the governor's part to undertake — became the target of criticism for numerous pork-barrel projects sought by legislators and approved by Ryan's administration. Saying no had been the hallmark of Ryan's predecessor, Edgar, whose frugal ways helped the state weather recession in the early 1990s and left the treasury with a \$1 billion surplus when he left office. To someone completely enamored with the art of the deal, "no" isn't a recognized part of the vernacular.

"I think Gov. Ryan's strength was his legislative background," Edgar says when asked about Ryan's tenure. "He is a creature of the legislature, and I think that's the person he is. That helped him in dealing with the

legislature. But legislative skills aren't always the skills people expect from a chief executive."

It has been said that in politics, sunshine is the best disinfectant. But for Ryan, openness wasn't a strength, as his refusal to answer the most basic questions about Bauer demonstrated.

Edgar, for example, kept records of overnight guests at the mansion and filed lists in his annual statements of economic interest outlining who had given him gifts, down to T-shirts and chocolates. Both were ways to monitor who may be trying to influence the governor. But Ryan abandoned those efforts. Ryan's public bill signings, a venue when he would come in contact with the Statehouse press corps, were kept to a minimum. Requests for interviews with his chief of staff, Newton, were rejected. All were examples of a style within the administration that made the governor seem insular and secretive.

As Ryan heads into retirement, questions linger. Recent subpoenas of Springfield travel agencies for records related to him, his wife and another secretary of state official indicate a continuing interest by federal investigators in the Republican governor. Ryan has always insisted he does not believe he will be indicted but repeatedly has refused to answer whether he has been notified he may be a target.

Should he manage to remain out of the prosecutors' scope, Thompson says Ryan could make a great lobbyist in Springfield. "I might have to retire," jokes the former governor, who has assembled one of the state's most impressive lobbying dossiers.

But before the book shuts on Ryan's public life, words he spoke before a jammed civic center in Springfield on the day of his inauguration carry a poignant ring. These words speak to what George Ryan was during his four years in office and, regrettably, provide a reminder of what he failed to become: "I'll be an advocate. I'll try to formulate compromise and a deal. I hope very much it makes me a hero when I do it." □

Dave McKinney is Statehouse bureau chief for the Chicago Sun-Times.

The legacy

Pragmatist. Dealmaker. Easy labels have always stuck to George Ryan. But now as the Republican governor prepares to exit public life, some surprising tags can be added. Risk-taker. Visionary. At the end of his career, the predictable old-time pol from Kankakee may have turned into the most confounding character of all: an enigma. Two examples suffice. As governor, the lifelong conservative who is against abortion and for law and order, vetoed abortion restrictions and halted state executions.

Let's add energetic, too. During his four-year term, Ryan's policy accomplishments have been extraordinary. Among the highlights:

- He won a \$12 billion program designed to repair the state's aging infrastructure. The dollars, raised through bonds, are being used to build or rebuild roads, bridges, sewers and public transportation.
- He got \$160 million for a land trust initiative.
- He strengthened environmental standards for mega-livestock farms.
- He lobbied for and signed a tuition tax credit for parents who send their kids to private schools.
- He pushed through a series of escalating penalties for people who use guns while committing crimes.
- He reached an agreement with Chicago Mayor Richard Daley to expand O'Hare International Airport and build an airfield in far south suburban Peotone.
- He had a hand in rewriting the rules on managed care, giving patients greater say in their medical treatment.
- He became the first sitting U.S. governor in 40 years to travel to Cuba.

The Editors

A style of her own

Chief Justice Mary Ann McMorrow proves that pundits' expectations can be too simplistic

by Aaron Chambers
Photograph by Paul McGrath

Chief Justice Mary Ann McMorrow and her six colleagues on the Illinois Supreme Court sat stone-faced through Larry Rosenthal's outburst. The attorney's objections to his adversary's argument were unprecedented for a hearing before the state's highest court. Unlike at trial, where lawyers routinely interrupt one another, attorneys facing the state's top justices are expected to sit quietly during opposing counsel's presentation.

If Rosenthal, who represents the city of Chicago, didn't violate courtroom procedure, he certainly violated etiquette. But McMorrow stayed cool. She listened as Rosenthal accused Joe Karaganis, who represents a group of suburban governments opposed to expansion at O'Hare International Airport, of introducing fresh arguments during his rebuttal. That isn't permitted, as attorneys are only supposed to respond to opposing counsel's argument.

Yet McMorrow told Rosenthal his objections would be considered with the case. Observers took notice.

It was the court's September term, less than a month after McMorrow had been sworn in as chief, and all eyes were on her. She had replaced Moses Harrison II, who retired for personal reasons after a decade on the high court and 29 years on the bench. As



Mary Ann McMorrow

they exited the courtroom, some wondered aloud whether another chief would have handled the situation differently.

"I probably would have said, 'Shut up and sit down,'" says Alan Greiman, who wasn't in attendance, but who, as

a justice of the state appeals court based in Chicago, is well versed in procedure. He also knows McMorrow: "She's not combative; she's not looking for battles. She's confronted with this and she wants to do the right thing. Without a lot of slavish adherence to exact protocol, she did the right thing."

Naturally, McMorrow has a style of her own, one that's distinct from her predecessors. Above all, she is diligent and down to earth. As Greiman puts it, "What you see is what you get."

McMorrow spent more than 25 years honing her style on the bench before becoming the state's top judge, a position that requires her to preside over oral arguments before the high court and manage its docket. As chief administrative officer of the Illinois judicial system, she must supervise more than 900 judges. Beyond that, she has prepared an ambitious agenda for her three-year term.

As the first female chief justice, McMorrow has some high-profile work cut out for her. She can expect, as is the case with U.S. Supreme Court Justice Sandra Day O'Connor, the first woman appointed to that court, extra attention simply for being a woman. When McMorrow was elected to the Illinois Supreme Court 10 years ago, becoming the first woman on the state's high court, she told the *CBA*

Record, the Chicago Bar Association's magazine, she admires O'Connor for gracefully handling this additional scrutiny. "I think she has performed exceedingly well under all these circumstances," McMorrow said. "I think the same thing will happen with me."

She added, "The women who have withstood [the added scrutiny] have performed well. This is why I want to perform well. Not only because I'm determined to do a good job, but also to make it easier for the women who follow me."

Being a pioneer is not new for McMorrow, who has lived her whole life on Chicago's North Side, where her father sold meat and her mother was a homemaker. Though she's a distant cousin of former U.S. Rep. Dan Rostenkowski, who was once a Chicago political powerhouse, she says she ran for the bench because fellow prosecutors encouraged her to do so.

The list of firsts is long. She was the first woman to prosecute major felony cases in Cook County and the first woman to chair the 1st District Appellate Court's executive committee. When the high court justices voted unanimously earlier this year to have her replace Harrison as chief, they made her the first woman to head any of the three branches of Illinois government.

Justice Rita Garman, the second woman to join the court, says women bring a new perspective to the bench — albeit one that's difficult to articulate — because their lives are grounded in distinct experiences. "I doubt that any of my male colleagues ever had the experience of having to justify their existence in law school because of their gender: 'You're not serious about this,' or 'You're just here to catch a husband,' or 'You'll never practice law.'"

McMorrow insists her experience as the only woman in her graduating class at Loyola University's School of Law in Chicago was positive, but agrees that women add a fresh dynamic to the court's deliberations.

She and Garman, though, stop short of saying this translates into law. "It's an opportunity to be heard and listened to," McMorrow says. "We don't want anything extra; we just don't want anything less."

McMorrow has also defied pundits' attempts to pigeonhole, proving that certain expectations for her, as a judge and as a woman, can be too simplistic.

For example, she wrote the court's 1997 opinion that voided the state's so-called tort reform law, which limited damages plaintiffs could win in civil suits, though she's not considered a plaintiff-friendly jurist. Her general approach to these liability cases, where one person or entity sues another over negligence, is statistically more conservative than that of her fellow justices. A recent *Chicago Daily Law Bulletin* study found that she sided with plaintiffs in only 30 percent of 40 tort cases. This is the lowest percentage of any Illinois Supreme Court justice.

"Justice McMorrow has a very good track record," says Ed Murnane, president of the Illinois Civil Justice League, a group dedicated to limiting the expansion of tort liability. "In fact, we're very happy that she assumed the leadership of the court because we think that she's moderate. Hopefully, she will use her influence to keep the expansion of lawsuits to a minimum."

McMorrow was not predictable in a gender-based dispute either. While she might be expected to side with women in such cases, she voted as a member of the Illinois Courts Commission not to remove from the bench a judge found to have made sexual advances toward four women prosecutors.

Though a majority of the commission, which hears complaints against judges, voted to expel Cook County trial judge Oliver Spurlock, McMorrow wrote in a dissent that Spurlock should instead be suspended without pay for a year. She wrote that while the former judge's behavior was "unacceptable," she found no evidence that he "exploited or abused" his judicial power. Specifically, she wrote, he didn't threaten to rule against the attorneys or influence their employment if they refused his advances.

During an interview in her Chicago chambers, McMorrow spoke candidly about the cases she's handled, and about her experiences. That frankness, too, sets her apart. Though it's highly unusual for a judge to acknowledge

succumbing to public pressure, McMorrow admitted forming a committee to screen candidates for judicial vacancies after the *Chicago Tribune* urged her to do so.

The full court has the ultimate say on filling such vacancies, but it typically defers to a single justice's recommendation: the court's seven justices recommend lawyers to fill vacancies within their respective districts.

But Chicago media outlets have questioned whether certain lawyers appointed to judgeships in Cook County — one of the court's five districts — were qualified for the bench. The *Tribune* urged McMorrow and each of her colleagues to form screening committees to ensure that only qualified people fill vacancies on the bench.

McMorrow says she has been satisfied with her appointments, but adds, "In spite of that, I was urged to form a special committee. So I did."

She insists, though, that public opinion is not a consideration when it comes to deciding matters before the court. "We do not make the laws," she says. "We must interpret and apply the law, and we must do that whether we like the law or not."

The new chief's agenda is extensive, though it mostly consists of following through on proposals initiated before she was elevated to the post.

She wants to encourage the court's death penalty committee to push forward on reforms it suggested two years ago. The court adopted recommendations for overhauling the system of adjudicating capital cases and the committee, which consists of judges from across the state, is working to put them into practice. One of the new rules, for instance, requires most attorneys handling death penalty cases to meet certain standards of experience.

"We must always be mindful that death penalty cases must be subjected to the most severe scrutiny possible," McMorrow says.

Along this line, McMorrow has emerged as an advocate for reform of the death penalty by pushing the legislature to limit the cases in which defendants can receive the ultimate punishment. In comments and in a published opinion, she urged lawmakers

style of her own



to scale back the number of factors that, together with murder, make a defendant eligible for death. "We have 20 eligibility factors now and that's a lot," she says. "I think that maybe we should restrict it to those that are used."

Only eight of the 20 factors have appeared in Illinois Supreme Court opinions, according to an analysis by Gov. George Ryan's death penalty commission. Prosecutors overwhelmingly favor two factors: committing a murder in the course of a felony and committing two or more murders. The gubernatorial commission recommended last spring that the factors be reduced to five: murder of a police officer or a firefighter while they're on the job, or in retaliation for performing official duties; murder of anyone at a correctional facility; multiple murder; murder that involves torture; and murder of a person under investigation, or anyone involved in the investigation, prosecution or defense of that crime.

McMorrow says, "I don't know where the restrictions should come. That's up to the legislature."

In an opinion published in August, McMorrow practically invited the criminal defense bar to present empirical evidence in support of the argument that having so many eligibility factors renders the death penalty statute unconstitutional. This argument stems from the U.S. Supreme Court's requirement that a state's death penalty scheme "genuinely narrow the class of persons eligible for the death penalty."

Counsel to Mark Ballard, the Death Row inmate whose case was at issue in the state Supreme Court's August decision, argued Illinois' death penalty statute fails to sufficiently narrow the class because most conceivable murders would include the circumstances described in at least one factor.

The state Supreme Court dismissed this argument and upheld Ballard's murder conviction and death sentence. It ruled that Ballard's counsel failed to "substantiate this contention in any way." But in a concurrence to the majority opinion, McMorrow wrote that the court lacked the data necessary to determine whether the statute actually failed to narrow the pool of death-eligible defendants. "We must have some idea, for example, what percentage of first degree murder defendants are potentially death eligible and what percentage of those defendants actually receive the death penalty," she wrote. "Defendant, however, has not supplied us with this information. Although one might suspect that relatively few first degree murders in Illinois are not death eligible, suspicion is not a substitute for evidence."

She is reluctant, however, to be compared on this issue to Harrison, who argued in his opinions that the death penalty is unconstitutional because an innocent person inevitably will be executed. From 1998 to his retirement, he dissented in every case in which the court upheld a death sentence. On the day he retired in September, Harrison told reporters he also is personally opposed to the death penalty. He even urged Gov. Ryan to commute each of the death sentences in Illinois.

"Justice Harrison voted to reverse every death penalty case simply because it was a death penalty case," McMorrow says. "I cannot go that far. My duty prohibits me from saying every death penalty case must be reversed because the legislature decides what the penalty must be. My duty is to follow the law whether I like it or not."

Of course, Harrison's position would be "the law" if he had convinced three other justices to vote with him.

On another matter, McMorrow wants the poor to have adequate legal services. This fall, the court voted to raise the annual registration fee for Illinois attorneys to bail out the Lawyers Trust Fund, which provides money to legal aid organizations serving low-income Illinoisans in civil

matters. Interest earned on lawyers' trust accounts that hold client assets are diverted to this fund. But with interest rates at an historic low, McMorrow says, the fund had run dry. Most Illinois attorneys pay an annual \$180 registration fee. By increasing the fee \$42, the court expects to raise \$2.4 million for the fund over the next year. An additional \$7 increase will help pay for substance abuse programs for lawyers.

McMorrow also would like to see the court give more emphasis to developing elder law — the body of law pertaining to seniors — and the investigation of elder abuse. The Women's Bar Association of Illinois is studying this issue.

She also has priorities that are primarily of interest to the bar. These include curtailing the unauthorized practice of law and limiting vicarious liability for attorneys.

The Illinois State Bar Association, which says nonlawyers in this state are improperly rendering legal advice, has asked the court to create an agency to control such unauthorized practice.

Vicarious liability is more complicated. It means lawyers with an ownership interest in a firm — partners or shareholders — can be held personally liable for malpractice committed by other lawyers in the firm. According to the state bar association and the Chicago Bar Association, which are pushing the court to scale back this liability, Illinois is the only state that imposes "unlimited vicarious liability on all lawyers." The groups propose that partners and shareholders be shielded from this liability on the condition that their firms maintain sufficient liability insurance or assets to cover a judgment against the firm.

The court's Rules Committee is considering both of these proposals.

And McMorrow says she wants to improve the public's perception of the court system. She cites a survey she received at the National Judicial College in Reno, Nev., that indicates "it costs too much" and "takes too long" to use the courts. The best place to start addressing these concerns, she says, is in discovery, the process by which attorneys on opposite sides of a

case exchange information.

"Discovery has become so broad and so large that it's almost cost prohibitive in many cases," she says. "Lawyers participate extensively in discovery; they want to make sure everything is covered and it's for their own protection. But there's a lot of discovery that goes on that might be eliminated and be cost effective to the client."

She declines to identify specific discovery provisions that could be eliminated or tweaked, but adds the court is constantly examining these rules.

Beyond her ambitious administrative agenda, McMorrow has distinguished herself in judicial decision making. In that regard, she's perhaps best known for writing the opinion that struck down tort reform, a politically controversial measure that was passed in 1995 when the GOP controlled both chambers of the legislature. Among other provisions, the law limited to \$500,000 the amount a plaintiff could recover for "noneconomic damages"—damages such as pain and suffering. This cap did not cover punitive damages or tangible losses such as medical expenses. McMorrow wrote that the cap violated the prohibition on special legislation by discriminating against the most seriously injured plaintiffs.

She also wrote the 1999 opinion that invalidated the former Safe Neighborhoods Law, a huge anti-crime package. The court's decision was of such concern to Gov. Ryan and lawmakers that Ryan called a special legislative session to reconsider the measure, including provisions stiffening penalties for illegal transport of weapons.

McMorrow wrote that the law violated the state Constitution's single subject rule, which requires that measures be confined to one subject. The rule is designed to prevent lawmakers from packing unrelated provisions together to ensure enough votes to pass more controversial items.

"My friends read about [the decision] in the newspaper and said, 'How could you do that?'" McMorrow says. "But they didn't understand. The title of the act was misleading and the basis for finding the act unconstitutional was perfectly valid. It violated the single

subject rule, which to the average person is something they know nothing about, but it was a decision that had to be made under the law.

"The fault doesn't belong to the judges. It belongs to the legislature. It didn't have to be enacted that way. It could have been enacted correctly and properly. It was the same thing with tort reform. It was poorly done, so the fault should be placed where it belongs, which was not with the court."

Two months after the court struck down the Safe Neighborhoods Law, it declined to rehear the case. But McMorrow dissented from that order, saying she would rehear the case to consider arguments that certain portions of the law were severable and should stand.

It is actions such as this that lead some lawyers who watch the high court to remark privately that McMorrow seems to have a difficult time making up her mind or that she tries to have it both ways.

Another case they cite involved a Polish citizen who fought his death sentence on grounds that law enforcement officials in Cook County violated an international treaty by arresting him for murder without informing him of his right to speak with the Polish consulate.

The high court ruled two years ago that Gregory Madej was procedurally barred from seeking relief for the state's violation of the Vienna Convention on Consular Relations. Now-retired Justice James Heiple, a libertarian, went the other direction; he filed a dissent saying the court should reverse Madej's conviction and sentence, and remand the case for a new trial. McMorrow found the middle; she wrote a partial concurrence/partial dissent, arguing the court should uphold the murder conviction but reverse the death sentence.

"As Justice Heiple correctly observes," she wrote, "we cannot expect that the citizens of this country, while abroad, will be afforded their rights under the Vienna Convention, or indeed, under any treaty, if we do not afford those same international rights to foreign nationals here in the United States."

A federal judge in Chicago subsequently vacated Madej's death sentence, saying his trial attorney

rendered inadequate representation.

As for the criticism that she vacillates, McMorrow says, "I think that all of these cases are extremely important. I'm careful and I ponder them extensively. It isn't that I have difficulty making up my mind; it's that I want to be sure what I ultimately decide is correct and was given careful thought."

In fact, McMorrow occasionally is compared to Justice O'Connor of the U.S. Supreme Court for her moderate approach to decision making. Some court observers contend McMorrow occupies the state Supreme Court's middle ground, much as O'Connor does on the federal court.

This comparison is overblown, however. The federal court consistently decides contentious cases by only one vote, with O'Connor casting the "swing" vote. But voting blocs within the state court are sporadic; unlike the federal court, the state court typically does not divide along ideological lines.

Further, McMorrow says she doesn't try to emulate O'Connor in decision making. "There's no effort on my part to be the middle ground," she says. "Whatever opinions I write are because those are my beliefs, not because I'm a woman or I'm a first."

Still, the *Law Bulletin* study concluded that McMorrow, together with Justice Charles Freeman, occupies the "cautious middle" in cases "between individuals and companies, governments or other organizations." The study said Harrison and Justice Thomas Kilbride lean toward individuals, while Garman, Justice Robert Thomas and Justice Thomas Fitzgerald lean toward governmental entities. (In September, Justice Philip Rarick replaced Harrison on the court.)

Still, McMorrow cautions against reading much into her actions. As for her handling of Rosenthal's outburst in her courtroom, she says it was not an indication that she will entertain objections during oral arguments.

"I don't think my ruling shows anything about my character," she says. "It doesn't show whether I'm passionate or that I go along or not. All I said was we'll rule on it later." □

Good bet?

Chances are high gambling is back on the table in Springfield

Analysis by Chris Fusco

Illinois won big in the first two months after state lawmakers took the nation's highest casino tax rate and hiked it even more.

The state took in \$57.6 million from nine casinos in July, 33 percent more than the same month a year earlier. And it hit a \$61 million jackpot the next month, a nearly 41 percent jump compared to August 2001.

Those numbers, and the state's continuing budget crisis, increase the chances gambling will be back on the table when the General Assembly convenes this month.

Given the tough economic times, lawmakers are expected to hear various proposals from the casino industry, most of which will aim to lower gambling taxes and increase the numbers of slot machines and table games on the state's riverboats. Gaming capacity is an issue of particular interest to the industry. Illinois is the only state that caps the size of its casinos, limiting them to 1,200 "gaming positions" each.

Pressure for a showdown in Gov. George Ryan's final veto session has been building since spring. Chicago Mayor Richard Daley could prove to be a wild card. He's said he's rethinking his position on gambling, and even contemplating a land-based casino that would be city-state owned.

Gambling opponents, who scored a big victory when legislators increased the top tax rate on the most lucrative casinos without approving more positions, are bracing for a fight.

"As soon as elections are over in a lame-duck session, I would not be

surprised to see a massive gambling expansion," says the Rev. Tom Grey, who heads the National Coalition Against Legalized Gambling. "The battle lines are drawn."

Indeed, Thomas Swoik, executive director of the Illinois Casino Gaming Association, has his calendar marked for November 19, the first day of the veto session.

"We're still looking at a tax restructuring proposal," he says. "We can generate more tax revenues for the state than are being generated through the current tax structure."

Industry representatives argue that, beyond the potential for additional state revenue, rolling back the new tax rates could make the state's dormant 10th casino license more valuable. If so, that would be important because lawmakers hope to share proceeds totaling in the hundreds of millions of dollars from a planned auction of the license through a legal settlement between Emerald Casino Inc. and the Illinois Gaming Board, which denied the company's application to build a casino.

Daley has said the casino he might seek for Chicago would be a new license, not the 10th license held by Emerald, which has agreed to give it up. Daley could travel to Springfield during the fall session, which is scheduled to run into December, but he will likely wait for the possibility of a more friendly Democratic administration taking the reins of state government next year.

Despite the economic benefits of gambling to the state, the operators and Daley might find themselves facing

a tough sell. Since successfully lobbying the General Assembly in 1999 to allow their riverboats to stay docked rather than cruise, the industry has been haunted by record Illinois revenues and by Emerald's failed effort to take its casino to the northwest Chicago suburb of Rosemont.

In 2000, dockside gambling's first full year in Illinois, casinos took in \$1.65 billion, up 21.6 percent from 1999. The industry, in the words of casino public relations consultant Guy Chipparoni, "was on a honeymoon," touting the tax money as helping schools and revitalizing communities. Last year, revenues increased another 7.6 percent, to a record \$1.78 billion. Of that, more than \$555 million went back to the state and to local governments in taxes, placing Illinois behind only Nevada in casino tax receipts.

But the 1999 law that permitted dockside gambling contained a controversial provision to let Emerald, then known as H.P. Inc., relocate its license from near Galena to Cook County, where Rosemont Mayor Donald Stephens was waiting with open arms. Then, in 2001, state gambling regulators alleged "insidious" mob ties to Emerald and accused two of its top shareholders, CEO Kevin Flynn and his father Donald, of making misleading statements about the company's dealings. The gaming board promptly rejected the company's Rosemont casino, igniting several lawsuits that placed the public spotlight on the embattled project.

The legal wrangling took its toll. A *Chicago Tribune/WGN-TV* poll

this year showed voters opposing a Rosemont casino by more than a 2-1 margin. A few months later, lawmakers stuck it to the casinos, though many of them had accepted political contributions from those companies. Casino giving to members of the General Assembly has totaled \$4.1 million since 1993, according to the Illinois Campaign for Political Reform.

Legislators raised the top rate on the graduated tax scale for casinos by 15 percent to a remarkable 50 percent of proceeds and boosted casino admission taxes \$1 a head. Casino companies couldn't believe it, noting Nevada's top tax rate for its 247 casinos is only 6.25 percent.

"The bad public image that comes out of a fiasco — and that's the only way you can describe what happened with Rosemont — doesn't help the case that casinos are bona fide businesses," says Bill Eadington, director of the Institute for the Study of Gambling and Commercial Gaming at the University of Nevada at Reno. "What Illinois is doing is copying what a lot of European countries have done: 'We're going to permit gambling, but we're going to be there every night to collect our share.'"

Says Chipparoni, the public relations

consultant who has represented several casino companies since the first riverboats came to Illinois in the early 1990s: "This industry now has found itself in a horrible quandary. It's been painted into the corner as 'just a bunch of rich guys.'"

Debunking that idea in the face of soaring casino revenues will be a goal of the industry in the fall session, as well as pleading its case for lower taxes and higher capacity.

Neighboring Indiana also figures to weigh heavily in the debate. After Illinois' higher taxes were approved, Indiana lawmakers also approved a tax increase, and allowed their riverboats to go dockside. In August, the first month the five northwest Indiana riverboats that are considered part of the Chicago market stayed docked, their revenues grew 22.4 percent, to nearly \$101 million, compared to the same month in 2001, Swoik says.

The four Illinois casinos in the Chicago market also experienced revenue growth, but not nearly as dramatic as Indiana's. In August 2001, they took in \$100.6 million compared to nearly \$104 million this August, an increase of 3.3 percent.

"Our total share of the market went down," Swoik says.

To prevent a future decline, Swoik says additional gaming positions are needed to give Illinois casinos more money to spend on marketing and on converting their facilities from Mark Twain-style riverboats to Wayne Newton-style barges, which attract more gamblers because of their larger quarters.

"If you've got a state with a 50 percent tax and 1,200 positions versus a state with a 35 percent tax and no limit and the market is growing because they went dockside, where would you invest?" Swoik asks.

But Grey isn't buying the argument that Illinois casinos are getting poor. Using figures released by a not-for-profit foundation of the Grand Victoria Casino in Elgin, he's calculated that riverboat still stands to turn a 28 percent profit.

"I don't think it's going to be anywhere near 28 percent," Swoik responds. "And you have to remember that Elgin is a very good operation. I didn't hear Tom trying to speculate on how much Rock Island was making. Everybody else was kind of in between."

What is undisputed is that Illinois and the Chicago area remain growing markets for gamblers, while the

Big player

Illinois is a high roller in the national gambling scene, tying for fourth place in the nation in total revenues and ranking second overall in tax receipts*:

STATE	CASINO REVENUES	GOVT. REVENUES	# OF CASINOS	CASINO EMPLOYEES
Nevada	\$9.5 billion	\$688 million	247	205,151
New Jersey	\$4.3 billion	\$342 million	12	45,592
Mississippi	\$2.7 billion	\$323 million	30	32,510
Illinois	\$1.8 billion	\$555 million	9	11,000
Indiana	\$1.8 billion	\$493 million	10	16,000
Louisiana	\$1.8 billion	\$375 million	16	18,620
Missouri	\$1.1 billion	\$323 million	11	10,516
Michigan	\$1 billion	\$219 million	3	7,599
Iowa	\$923 million	\$217 million	13	9,226
Colorado	\$632 million+	\$92 million	43	7,132
South Dakota	\$58.6 million+	\$4.5 million	40	1,458

*Does not include American Indian casinos or states with casinos at horse tracks only

+limited stakes casinos

Source: American Gaming Association



September 11 terrorist attacks continue to hurt casino business in Las Vegas and cause limited growth in Atlantic City. Illinois' nine riverboats reported 18.8 million admissions last year — an average of 5,700 people per casino a day — and business continues to increase.

"The [Chicago] market is strong because there is greater demand than there is supply," says Alan Feldman, a senior vice president for Las Vegas gambling heavyweight MGM Mirage.

Illinois also will be in the unique position of finding out what a casino license is worth on the open market. Barring the possibility that Rosemont will thwart the settlement between Emerald and the gaming board through a federal bankruptcy lawsuit, communities and casino companies are expected to pair up and bid for Emerald's license by early next year.

Before the higher casino taxes, the state could have reaped at least \$300 million from a proposed settlement that would have allowed Emerald to sell the license for more than \$600 million to MGM Mirage, which would have finished and operated the Rosemont casino that Emerald had started building. Instead, gaming board members approved a settlement that allows communities statewide to vie for the license.

Getting top dollar for the license "clearly wasn't the goal," says former gaming board Chairman Gregory Jones, who helped craft the deal. "That might have been the goal of other people, to stem the economy after September 11, but when you look at all that occurred, you wanted to have this open, competitive process."

Despite the tax increases, several

major gambling companies are expected to submit bids for the license, with Des Plaines, Waukegan, Summit and Calumet City being viewed as the top host communities so far. Rosemont, for now, won't cooperate with the terms of the settlement, believing state law requires whoever buys Emerald's license to locate within its borders.

Regardless, casino companies appear interested.

"The question is, 'Is there still a viable business opportunity under those new tax rates?'" says MGM's Feldman. "We continue to evaluate

"If they're able to roll back this tax and expand gambling to more positions, then Illinois will go into the column of a pathological gambling state," Grey argues. "Public policy is supposed to keep gambling in place. Now, the 800-pound gorilla is out of the cage and telling you what it wants to eat."

"You cannot just do this argument on the benefit side without saying, 'What's the cost?'"

That cost, says Grey, is pathological gamblers, 2.2 million nationwide, according to the 1999 National Gambling Impact Study Commission created by Congress. Despite that number, an American Gaming Association study last year found that "79 percent of Americans believe that casino entertainment is acceptable for themselves or others."



As that debate rages, virtually everybody in Las Vegas is keeping an eye on the Land of Lincoln. Wall Street analysts are citing neighboring Missouri and Iowa as two states where lawmakers might follow Illinois' lead and increase casino taxes to shore up their budgets. At the same time, how the bidding of the Emerald license goes could determine whether more licenses will go out for bid in the future.

In this politically charged atmosphere, Swoik believes common ground can be found in Illinois. "It's not a matter of asking for another 15 casinos," he says. "It's a matter of asking for us to utilize the licenses we have to the fullest extent and generating additional funds for the state by doing that." □

whether there's an opportunity there.

"We're looking at sites. We're looking at the cost of building in different areas, trying to determine the viability of a project in a number of different places."

The gambling industry could be at a crossroads in Illinois, as Grey believes. He's long observed the industry "playing states off each other," as evidenced by Swoik noting Indiana's decision to go dockside in justifying a need for larger casinos here.

Chris Fusco is a reporter for the Chicago Sun-Times who covers gambling issues.

Political shutout

Who will stand up for folks who can't buy influence over elected officials?

Analysis by John Kelly

Illinois' way of funding election campaigns is broken, but not beyond repair.

The super rich and their lobbyists write fat checks to constitutional officers, state legislators and candidates chasing those jobs. The recipients can spend the money as they see fit — on campaign signs, television ads or monthly lease payments on sleek Lexus sedans. The few rules that do exist to keep this flimsy system free of corruption are not enforced because the state agency assigned that responsibility has little staff and even less authority.

It's time to call the repair crew.

Any Illinoisans who doubt that, should go back and read a couple of years' worth of news accounts. Gov. George Ryan spent at least \$2 million from those rich donors' contributions to pay for a squadron of lawyers, necessary to shield him from allegations that his foot soldiers spent the 1990s using state workers, facilities and equipment to campaign and raise more money. Allegations that House Minority Leader Lee Daniels did the same, using legislative staff, prompted him to resign as the state chairman of the Republican Party. He has since decided not to run again for the legislative leadership post. Across the aisle, Democratic House Speaker Michael Madigan is facing similar allegations. The U.S. attorney's office in central Illinois is reviewing information that Madigan's state-paid staffers campaigned on state time and then got big bonuses for providing the political help.

Those are just the headlines, none of which address the larger problem:

Big contributors price regular folks out of the race to gain attention from and influence over elected officials.

Unfortunately, it would appear to take extraordinary events, even widespread scandal, to get elected officials to act in a way that might hurt their interests. Public pressure, it seems, is required to prompt even conscientious lawmakers to act. But Illinois is well beyond that threshold. It's time for the General Assembly to go to work.

Lawmakers should, at least, limit how many dollars individuals or groups can give to any one candidate. Illinois has no such limits. Lt. Gov. Corinne Wood was on the right track last spring. She was alone among the six primary candidates for governor in saying what most politicians still deny: Money has the potential to buy influence and corrupt representative government.

Here's a suggestion. Cap donations from individuals at \$2,500 per election cycle and contributions from political action committees at \$10,000 — under the theory that those PACs represent the interests of many individuals. And go a bit further than Wood proposed by forbidding the funneling of campaign cash from one candidate to another.

Some critics, including Attorney General Jim Ryan, the Republican nominee for governor, say limiting campaign donations raises constitutional issues. Hogwash. The United States has long limited donations to candidates for president and Congress. And most other states cap political contributions.

Why do it? Because it reduces the overweight influence of the privileged, the rich and the powerful. The typical

Illinois family is not making enough money to afford to give \$1,000 to Jim Ryan, or to the Democratic nominee, U.S. Rep. Rod Blagojevich. So who, for instance, is more likely to get a telephone call returned by a Gov. Jim Ryan, were he elected: a mail carrier who donated nothing but is worried about a proposed peaker power plant or the guy (Gerald Forsythe) whose company (Indeck Energy Services) builds peaker plants and has given more than \$140,000 to Ryan's campaigns?

Most politicians argue that donations don't buy influence or access. Common sense and decades of well-documented Illinois scandals tell us otherwise. And most of the money comes from deep pockets. An analysis of state campaign finance records by The Associated Press shows that in 2001 alone, about a third of the approximately \$15 million given to the six primary candidates for governor came from individuals and companies giving more than Wood's proposed limits.

Limit a guy like Forsythe to \$2,500 per election and he is instantly on a more level playing field with other citizens when it comes to demanding the governor's attention. It's not a completely level playing field — keep in mind most Illinoisans can't afford to write such a check after paying rent and feeding their families.

Likewise, because it can give without limits, an interest group such as the Illinois State Medical Society has poured millions into the campaigns of governors and legislative leaders since 1994. So if a major piece of medical legislation surfaces, is a committee

chairman who took a five-figure check from the doctors' PAC going to feel obligated to listen more closely to that group's opinion or to patients who did not give?

Politicians will say only corrupt elected officials operate that way. But Wood and others have argued that limiting donations to a more reasonable amount takes the pressure off elected officials and reduces, if not eliminates, the potential for buying influence.

Here's another suggestion. Forbid candidates, in the clearest possible terms, from using political donations for personal expenses. Some Illinois politicians spend the money on themselves without shame and others attempt to obfuscate by claiming such expenses as the monthly lease payments on luxury cars as campaign-related costs.

As with contribution limits, the federal government and most states forbid using campaign funds as personal petty cash. They've learned that letting governors, legislators and other public officials freely spend money given to them by people with an interest before state government badly blurs the line between political contributions and bribes. Again, politicians will counter that most contributors and officeholders do not think this way about the transaction. But the potential exists for abuse when there are no enforced rules.

In Illinois, candidates are given handbooks that tell them they aren't supposed to spend campaign money on personal items, but it's an empty threat spurned by even the most high-profile elected officials. Gov. George Ryan's disclosure reports show that, in recent years, he has tapped his campaign fund to buy gifts for family and friends. His campaign owns four vehicles, according to the secretary of state's office, and his spokesman Dennis Culloton will not say who drives them now and what will happen to them when Ryan leaves office at the end of this year. The campaign reports show payments of Ryan's monthly dues at his hometown Kankakee Country Club. He gives money to charity and bonuses to state workers

out of the political fund, too, according to the reports. Suggesting that such expenses are related to getting Ryan elected to office is ludicrous — even if he were running for an office.

The governor is not alone. It has been documented that some legislators have used campaign funds to buy vehicles, remodel homes, take lavish trips or even pay for funeral and burial expenses. That's money from special interest groups, wealthy companies and rich people going straight into elected officials' pockets. That's so close to a bribe, it's hard to call it anything else. Illinois needs to join the rest of country and realize the potential for corruption.

Here's another suggestion. Give the Illinois State Board of Elections the power it needs to enforce the rules. Opponents of campaign finance reforms contend disclosure laws implemented by Illinois in recent years help expose corruption and conflicts of interest. They say donations politicians receive are documented so the public knows exactly who gave. Spending, too, is documented so the public is told when an official, such as the governor, uses the money to pay his golf club dues.

It's true that Illinois has made great strides in disclosure. The state has put the information on the Internet so that any citizen with a computer can see who is giving and who is getting campaign cash. Journalists and watchdog groups use the electronic information to root out questionable practices.

But the system is not nearly good enough. It's full of holes, and there are too few officials in charge of the process.

The only rule truly enforced is the requirement that politicians file financial reports by set deadlines. If they share their bookkeeping records with the state on time, they aren't likely to be questioned. One of the more egregious weaknesses in this oversight goes right to the heart of the disclosure system: identifying who the campaign donations come from and how the money is spent.

Even a cursory review of campaign finance reports shows countless donations from people not completely

identified. The names are spelled wrong, the addresses are missing or incomplete and employment information is not listed. (During this election cycle, Democrat Blagojevich initially filed a report that failed to detail the addresses, occupations or employers of hundreds of contributors who gave his campaign for governor more than \$500. He later filed amended reports. The elections board levied no penalties.) Under Illinois law, an individual or company giving \$150 or more must be identified by full name, address and, for individuals, the donor's occupation and employer. In a state of 12 million people, incomplete identification makes it almost impossible to figure out who is giving to whom.

On the spending side, candidates give such vague explanations about the purpose of some expenditures — "travel" or "supplies" — that observers have no way to tell whether the money was spent for the benefit of the campaign or the candidate.

These weaknesses undermine the stated goal to identify where money came from and where it goes. The current state of enforcement is no enforcement. That needs to change. The legislature must give the elections board the authority and staff it needs to treat enforcement seriously. It's time for a hard-line approach. One can be assured that candidates' reports would be perfect and complete if the board began forcing them to refund any contribution in which the donors' name or address were wrong, or the address or employment information were incomplete. Disclosure only serves to protect the people from corruption if it is true disclosure — rather than a facade.

The typical Illinoisan is shut out of the political system. If campaign donations are free speech, then Illinois' limitless funding rules squelch the voices of the vast majority of citizens who live here. It lets the rich and the privileged hand huge amounts of money to elected officials who are supposed to be making decisions that are best for all of us. That's money that lets some powerful politicians live the high life. While most of us pay

SCHOLARS AGREE

The dollar has political power

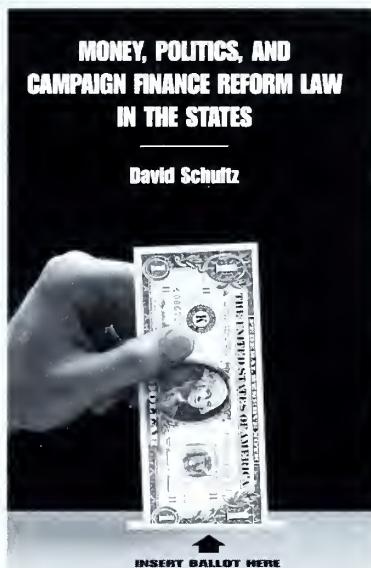
It should come as no surprise to Illinoisans that the problems associated with the relationship of money to politics are moving from the nation's capital to the state capitals. The cost of running for state office is rising virtually everywhere, and the connection between campaign contributions and policy is tightening.

But David Schultz offers close documentation of that trend in *Money, Politics, and Campaign Finance Reform Law in the States*, just released by Carolina Academic Press in Durham, N.C.

Schultz brings expertise to the subject. He's a professor in the Hamline University Graduate School of Public Administration and Management and an adjunct professor of law at Hamline and the University of Minnesota, where he teaches election law. His book, a compilation of case studies from a dozen states, including Illinois, details a diversity of strategies states have employed, through the 2000 elections, to address the impact money has on campaigns and governance. He includes a section on local regulations, as well.

The states' techniques, he writes, "range from doing practically nothing (as in Texas), to simple disclosure (as in Illinois), to other patterns, including forms of contribution limits (as in Wyoming, Oklahoma, and California), bans on corporations or union contributions and restrictions on lobbyist activity (as in South Carolina and Minnesota), and forms of public financing for elections (as in Minnesota, Massachusetts, and Florida)."

It should come as no surprise to Illinoisans that the Land of Lincoln is among the unregulated. And the chapter by political scientist Kent Redfield of the University of Illinois at Springfield covers ground that will be familiar to those



our bills with our own money, some elected officials are able to dip into their campaign slush funds to buy cars, gifts for their spouses or primo Chicago Bulls tickets. On top of that, the system's idea of a watchdog agency is one on so tight a leash that it can barely bark, let alone bite, when someone breaks what few rules there are. Against those astronomical odds, the voting public has one tool to level the playing field: information. But, perhaps by design, the system doesn't include enough regulators to make sure that we get reliable information that truly identifies the campaign donors, the recipients and the nature of the

purchases they make.

So who is supposed to stand up for these folks? Believe it or not, their representatives in the legislature.

A close look at legislative campaign finance reports shows that a privileged few power brokers are collecting most of the campaign cash under the current system. They are vastly outnumbered by the dozens of rank-and-file lawmakers who collect enough cash at spaghetti dinners and chili suppers to buy a couple of radio spots and some yard signs.

The scandal that screams from the front pages of Illinois newspapers is now about the leaders of both parties,

who have followed his efforts to track campaign contributions and spending over the years. Nevertheless, it's an eye-opener.

Redfield pulls together the ways in which money combines with politics in Illinois to give the leadership in the General Assembly far-reaching power. His chapter is an important primer on how money swings elections in targeted races, and how it affects the legislative process.

In particular, he provides the most extensive analysis yet of the dollars that flow from gambling contributors and liquor interests.

His assessment on gambling is especially timely. Redfield notes that in 1998 no one ran for the legislature or for governor on a platform of expanding gambling in Illinois. And expanding gambling didn't register as a top citizen concern in opinion polls. "All of this," he writes, "hardly seems like a recipe for passing a gambling subsidy and expansion bill. Except the money." In fact, there was a lot of money to be made — by the casinos, and by politicians in the form of campaign contributions.

Thus, in 1999, Illinois got a law that provided tax breaks and subsidies for the horse-racing industry, allowed riverboat casinos to remain docked and authorized a casino license to move to the suburban community of Rosemont.

Redfield writes: "As one long-time incumbent legislator summed it up, 'I like to be the people's representative. The problem is that the people don't have any money.'"

This book is a must-read for anyone who wants to understand the direction of politics in Illinois and in other states.

The Editors

negating its power as a campaign issue for the Republicans or Democrats alone and making it difficult for anyone to publicly defend the system.

One wonders whether those rank-and-file lawmakers who have nothing to lose from reforming a broken system will finally stand up and vote to give representative government back to all of the people. □

As the special assignment reporter in The Associated Press' Chicago bureau, John Kelly covered Illinois state government and statewide issues until last summer. He now leads a team of reporters covering NASA for Florida Today in Melbourne, Fla.

Q&A

Pam McDonough

She's the first woman to head the Illinois Department of Commerce and Community Affairs, the agency charged with promoting economic development. Before her appointment nearly four years ago by Gov. George Ryan, she served in senior positions at four other state agencies. She has worked on the Illinois House Republican staff and was deputy director of legislative affairs for former Gov. James Thompson. In the private sector, she headed government relations for the Illinois Bankers Association.

She's a board member of Women Executives in State Government and the Travel Industry Association of America. She holds a master's degree in public administration from Sangamon State University (now the University of Illinois at Springfield).

Among successes in her current job, McDonough cites attracting Boeing's global headquarters to Chicago and new facilities for Procter & Gamble and Sprint PCS downstate.

This fall, she received the 2002 Motorola Excellence in Public Service Award, which is co-sponsored by Motorola, the North Business & Industrial Council and Illinois Issues.

Mike Morsch, the magazine's publisher, spoke with McDonough. This is an edited version of that conversation.

Q. Do the state's economic development strategies need to change as we head into the new century?

I think it's more, "Why don't we stay the course because we've had a successful run." We were able to reinvigorate and refinance and restructure the economic development strategy for the state.

That involved looking at the marketplace and seeing that we were at a competitive disadvantage. All of the surrounding states had some sort of tax credit for job creation available to companies if they were going to



relocate or expand. So the first thing that we did was pass legislation that created the Edge Tax Credit for job creation. My suggestion is that we keep some of those sorts of measures.

Additionally, we've received, as part of the funding that was possible under Illinois First, money dedicated to incentives for business development. We have the Prime Sites program, which allows us to offer assistance for bondable aspects of economic development projects, to help offset the costs of land acquisition, site preparation, building acquisition. That's another big issue.

Solo Cup in Chicago was the first project where we used Illinois First dollars. There was \$12 million, and that was the funding gap. That property, the USX site, had lain there dormant for 20 years and our money went for purchasing fill dirt so that you could construct on the site. If we couldn't fill that gap, the company was in Indiana. There's no two ways about that. Indiana was aggressively trying to steal the company from Illinois. So there probably needs to be some version of Illinois First.

And the third thing is very critical. That is the Industrial Training Program. [It] offers a company assistance with training costs. Essentially, we pay 50 percent, which is critical as the economy changes and new technologies come into [existence].

Q. What is the extent of the government's responsibility in boosting private enterprise?

Our role isn't to compete with the private sector. Our role is to do the things necessary to make the state competitive. So, for instance with technology, the [\$1.9 billion] Venture-Tech program has tried to build up our technology infrastructure.

There is a program called Illinois Century Network and that links museums, libraries, government, research facilities, private sector businesses. That isn't something we see the private sector stepping in [and doing]. But it makes us more competitive.

Q. Are there limits to our fiscal support?

It's like anything else. Do you have to do upkeep to your house? If you don't, the cost is going to be a lot higher in the long run.

We can't ignore things and then expect to be competitive. We have to make the investment. It has to be a consistent, reliable investment in the state's transportation infrastructure, technology infrastructure and human infrastructure. Economic development is a very competitive business.

A lot of people think, for whatever reason, that they should look at the programs we have and cut them [in bad economic times]. We're the salespeople for Illinois. We're the ones trying to create jobs and, therefore, additional taxpayers — and people who can buy homes and get their kids through school. It's shortsighted to think that way.

Q. How can the public and policymakers measure the value of financial support for private enterprise?

You analyze it based on return on investment. That's how the private

sector analyzes it.

The Boeing deal is a perfect example. The state's investment was fairly limited for what we got in return. They were offered an Edge Tax Credit. We put money in for training, we gave them a million dollars of assistance toward their capital, and then we created the Corporate Headquarters Relocation Act, which allows them to recoup some of the cost of the relocation. So that might be up to \$8 million.

The analysis of the impact on the state of Illinois is, over 20 years, \$4.5 billion dollars. So I don't think that's a bad investment. I think it's probably one of the more reasonable ones we've done.

The fact that we had to pass legislation made it a little unique. If we have another major company [that wants to move to Illinois], they can exercise the value of that legislation also.

Q. What's the relationship between Illinois and overseas governments?

We've got nine trade offices. One of the things that allows us to be more competitive is that our first trade office was in Brussels over 30 years ago. The gentleman who runs the Brussels office is the same guy who opened the Brussels office. So we have continuity and reliability and stability. And a good number of our people who are running trade offices have been there 10 years. So it does give you a little bit better position. They know what they are doing. People know whom to ask for.

One in three manufacturing jobs in this state is tied to exports, and one in eight overall jobs is tied to exports. So for us to not pay attention to that really is to not understand the mix of businesses in the state.

And I think this state really needs to be looking to position itself for a global economy. So we've hosted a bunch of seminars for small businesses because it can be intimidating if you don't understand how to deal with another country, especially if there is a language barrier. For a couple

of years, we've hosted something called "Crossing International Borders" in Chicago. We would get up to 1,000 people coming to those.

We started to try to tie Illinois companies and other countries with an international videoconference to try and acquaint these people with people who will be investors or people who might be a good fit for a partnership. And I think we've actually had some success out of that.

We've gotten ourselves connected with a company called [Michael] Gallis [& Associates], and we're trying to develop a more cogent global strategy. [We're looking] at our position from a transportation perspective, from an intellectual perspective, from a diversity of company perspective.

They've done some analysis for other states. We're actually hoping to have it be a little more regional in context. Where we could pull [in] Indiana and Wisconsin and some other states. Because, in a way, it's not just about Chicago or a certain part of the state. We have to view ourselves in a regional context.

That's something that is under way. I think it's going to be very compelling. Some of the early presentations that I've seen from that group have given some interesting ways that the economy shifts. It started with water, it moved to air. Rail is a big piece of it. Then you go into technology in terms of how we communicate.

So, rather than do stuff and then figure out why we did it, we think it's better to understand what we have and if we want to capture more of the global marketplace, what do we need to do? Is there something transportationwise that would give us an edge? Or is it based on the kind of people we train or the kind of training that we are doing? Does that give us an edge? We're really looking at that in a global context at this point.

[It will] probably be a year out before we get the report, but it really is something that is vital to our long-term strategic agenda for economic development.

Q. What's the role of physical, social and cultural infrastructure in luring and retaining business?

It is very critical. We saw that with Boeing, we see that continually with a lot of companies that we are working with.

You get to the business deal part of an expansion or an attraction or retention — and it's more likely with an attraction when you're bringing a new company into the state — more and more, once we get beyond the business context of the deal, they're saying, "Well, what else? What is there to do? What kind of schools do you have for my kids? Is this a safe community? Are there cultural things that we can be involved in? What kind of recreational activities are there available?"

It really is becoming a critical piece of the mix. This is about sales and marketing.

Q. What challenges are shaping up for the new governor?

Budget has to come first, and then policy initiatives. I don't think there is going to be a lot of latitude for new initiatives because of the financial resources being depressed.

The second challenge is management. Look at the impact, and none of us have been able to gauge it yet, of the early retirement initiative on state government. I think a lot of people are underestimating that.

Good policy can be good politics. And if you can't perform the fundamental functions that the statute directs you to do, it doesn't make any difference if you have new ideas.

Getting to a place where you've got your management team in place will be challenging because you're looking at a lot of people that might take early retirement.

Q. What is your advice for the next administration?

Be deliberative. We manage over 50 different funds. We run over 100 programs. □

DISTANT MONSTERS

WONDERFUL LIFE

The Burgess Shale and the Nature of History

Stephen Jay Gould, 1989

W.W. Norton and Company

Review essay by Robert Kuhn McGregor

The earth abounds in mysteries. Nothing suggests so much the minute importance of the human presence as the vast puzzle that is the world around us.

Reassuring ourselves that this blue earth after all belongs to us, we work our collective intelligence overtime, trying to fit utter strangeness into an understanding we can control. The geologic past mocks our efforts, tossing up weird practical jokes to remind us

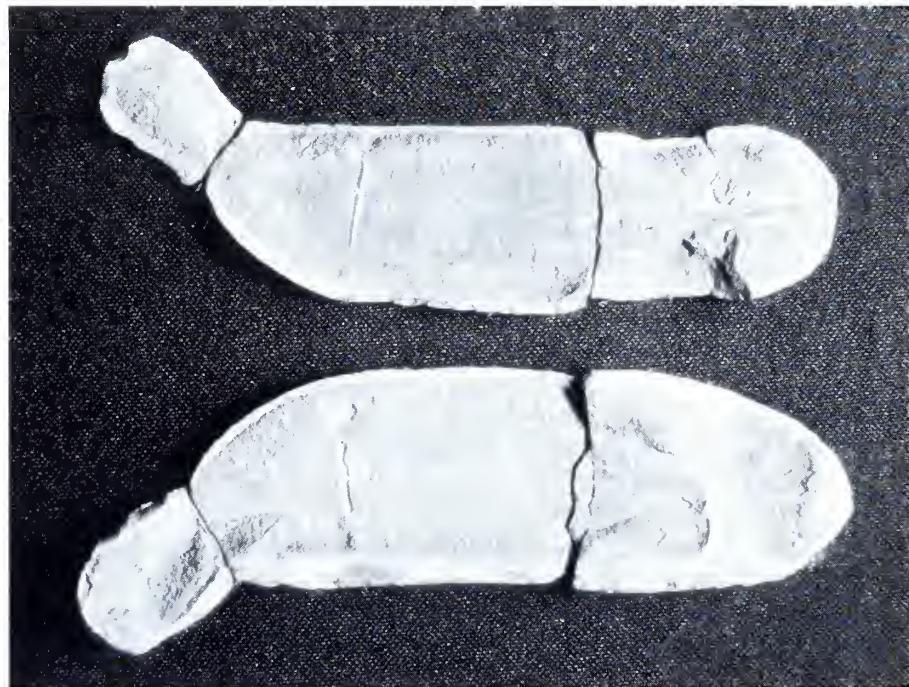
that the distant past is a foreign country, populated by different orders of existence. For most of us, the challenge of reading the map can be a bother. Just give us the simple and prosaic, please — a familiar attitude, and a dangerous one. If we are to comprehend where we stand, physically and metaphorically, we are going to have to learn something of the conundrums resident in our earth's mysterious past.

Bowing to that necessity, I find

myself writing of Illinois' very own Tully Monster, and of natural historian Stephen Jay Gould.

I cannot bring myself to believe that more than one Illinoian in 10 truly grasps the magnitude of the puzzle beneath our prairie feet. Our schoolchildren elected Tully Monster the official state fossil back in 1989, assuredly a tribute to its unique qualities. The monster was a strange little creature, and the Mazon Creek strata near

Courtesy of the Illinois State Museum



Tully Monster specimen, Illinois State Museum

Chicago remains its only known home. But the mystery merely begins with such commonplaces. When life becomes dull and dreary, consider a field trip to the Illinois State Museum and have a long look at the thing.

The *Tullimonstrum*, or Tully Monster, was a denizen of the later Carboniferous Period, which ended some 280 million years ago. Known in America as the Pennsylvanian, the epoch began some 85 million years after the first plants and animals began to occupy land. The Pennsylvanian was the period when layer upon layer of dying ferns decayed to form deep black deposits that would eventually harden into coal. Much of that vegetation lived and breathed as integral parts of a wetlands ecosystem. The weather was tropical; what is now Mazon Creek rested almost exactly on the equator.

This portion of the wide world was a great swamp during the Pennsylvanian, a quagmire characterized by a puzzling array of primordial plants, standing mostly in poorly drained waters at the borders of a shallow sea. Trees had not appeared yet, but several species of ferns were large enough to bear the resemblance of viable substitutes. Marine animals crawled, burrowed, slithered and swam among this maze of plants. Most were in an odd way familiar, though different from modern creatures, the ancient relatives of shrimp, jellyfish, squid, fish and even sharks.

And then there was the Tully Monster.

The monster was discovered by Francis Tully in 1958 in the Mazon Creek strata in Will and Grundy counties. The site of the find is on private property, but collectors did acquire some of the fossils.

At the Illinois State Museum, the Tully display includes one of the better remains and an artist's best guess as to what the creature looked like in life. The specimen is a perfect example of the strengths and the difficulties of fossil preservation.

The chief strength is that the animal was preserved at all. The Tully Monster was apparently a soft-bodied creature with no hard parts. Normally,

fossils preserve only hard parts — we know of the existence of many animals only from their teeth — so preservation of a soft body is a rarity to be treasured. Presumably the monsters, when shuffling off this mortal coil, sank to the bottom of the swamps, coming to rest in anaerobic environments that retarded natural decay. Covered by successive layers of sediment supplemented by the remains of plants and other animals, the monsters' bodies were eventually pressed flat and preserved as films on rocky backgrounds. The fossil at the state museum appears as a dark, splattered silhouette on a reddish backdrop. The outlines of the beast are starkly clear. Therein lies the challenge.

In life, the Tully Monster was not a flat film. Possessed of three dimensions, it (presumably) swam through the swampy waters with some facility, gathering nourishment, avoiding predators. Squashed flat in death, the remains at best offer tantalizing clues to the monster's appearance and habits. We will never really know what a three-dimensional Tully Monster looked like, which forces me to use such words as "presumably" in attempting to describe it.

A few attributes can be identified without quibble. The state museum's specimen, apparently a typical one, is roughly 10 inches long. The last couple of inches or so, the body tapers to a point, looking very much like some kind of nose or proboscis. This snout ends in a jaw. Close examination with a microscope reveals eight tiny projections in the jaw. Teeth, maybe. One assumes that the snout must be at the front end. At the back, then, are a longish tail and two triangular fins. And, midway along the body, two odd-looking stalks jut forward, maybe half an inch. The paleontologists suspect the stalks supported eyes. A weird wonder indeed.

Out of this assortment of information, the artist has rendered a creature resembling a flexible 10-inch hose. At the front, a long, bendable tube probes for food, aiming to attach itself to some poor victim's body in the manner of a sea lamprey. Midway

In life, the Tully Monster was not a flat film. Possessed of three dimensions, it (presumably) swam through the swampy waters with some facility, gathering nourishment, avoiding predators. Squashed flat in death, the remains at best offer tantalizing clues to the monster's appearance and habits.

down the body, eyestalks angle warily as the beast scans its world, searching for snacks, watching for foes. The fins and tail propel it forward efficiently through shallow swamp waters. A strange creature, and not altogether a practical one. What else is there to say about an animal that has, when it comes right down to it, no head? The Tully Monster was a swimming digestive tract with eyes (maybe) stuck on the sides.

That such a creature should disappear from life's pages quickly and ingloriously is not at all surprising — it was not well-equipped to confront the competition. Even the trilobites had more in the way of defenses, more in the way of abilities to exploit the earth's resources. The Tully Monster was the weird work of an evolutionary moment. That the monster has no modern descendants is not puzzling. The real mystery lies in its antecedents. Where did the monster come from?

Tully defies classification, a source of considerable dismay among scientists. Biologists do love systematic categories, especially the scheme developed by Karl von Linne (Linnaeus) in 1735. This is the familiar Kingdom-Phyla-Class-Order-Family-

The Tully Monster is a genuine freak of nature. What are we to make of its life on earth?

Genus-Species nomenclature I was budgered into learning in high school. The system becomes more specific as the student works through the categories. Human beings belong to a phyla that includes everything with a backbone, but we are the only living members of our particular genus and species. Still, our genus is a small subdivision of a quite successful phylum. There were chordates among the fauna of the Cambrian world. In the long intervening millennia, animals as diverse as sharks, turtles, tyrannosaurs, snakes, hummingbirds and orangutans have evolved, all employing that same essential chordate body design. A phylum — a purely human organizational construct, mind you — can be a large umbrella, offering a home to lots of species.

Applying the Linnean system to the Tully Monster is an astoundingly simple procedure: It is a member of the animal kingdom. That is as far as we can get. The creature has no known affinities with the members of any other phyla. Although no one wants to say so, to describe Tully in the context of the Linnean system, we would have to give the monster its very own phylum. Few facts in the whole wonderful world of biology are more astounding than that.

The Tully Monster is a genuine freak of nature. What are we to make of its life on this earth?

No one thought harder and more originally regarding such mysteries of nature than the late Stephen Jay Gould. I made a special pilgrimage to see the Tully Monster this spring, when I first heard of his death from cancer. Gould — Harvard paleontologist, evolutionary biologist, co-originator of punctuated equilibrium theory — pondered the hard mysteries of life's complicated past, discerning answers that intrigued many, discomfited not a few. He held a special affection for the "weird wonders" of paleontology, the Tully Monster included. Gould more than suspected that such oddball fossils are trying to tell us something, and he struggled mightily to provide the interpretation.

Gould severely criticized the standard paleontological approach to such

creatures as Tully. The standard approach, noting the monster's superficial resemblance to snails and other molluscs, was to file the beast in that phylum. Sheer desperation, Gould argued. Willful deception, constructed on the notion that evolution is progressive, that life has got more complicated through time.

Conventional thinking argues that all the world's animals have descended from creatures belonging to one of the roughly 35 recognized phyla that must have emerged in the early Cambrian. These phyla provided the original body plans of modern life; the vast cascade of creatures populating the planet in the present all utilize one of those body plans. The Tully Monster came along more than 150 million years after the end of the Cambrian. Therefore, the monster must belong to one or another of the original phyla. The molluscs look like the best guess, so we'll put them there, for lack of anything better. They do have to go somewhere, conventional thinking argues, and the monster is, after all, very old. As older must mean simpler, Tully must be a simple mollusc — so simple we cannot recognize it as such.

This is the practice Stephen Jay Gould labeled "the shoehorn." We stuff fossil oddities into conventional classifications, simply because we do not want to begin adding groupings. That way lies trouble.

This is more than a simple matter of placing little animals in appropriate boxes. Biologists and paleontologists are changing their definitions of those boxes all the time. When I was in school, life was divided into just two kingdoms: plants and animals. Most scientists now embrace a system that includes five kingdoms, and there is serious talk of adding a sixth. The number of phyla within each kingdom vary significantly from one textbook to the next, in the manner of historians quarreling over interpretation. If this were a simple matter of definitions, we could sigh quietly and turn the page. Something far more fundamental is at stake.

The thinking behind the shoehorn reveals an attitude about the way life

evolved. Accepted wisdom has it that life started simple, and became increasingly complex as evolution got to work. As the millennia flew by, more and "higher" species appeared, until we arrived at the most complicated species of all: ourselves. But Gould seized on biological enigmas such as the Tully Monster, along with many such riddles from the earlier middle Cambrian, to offer a picture of life turned upside down. Rather than life becoming more disparate through time, he argued in *Wonderful Life* that it has become less so. Back in the Cambrian, there lived, along with the trilobites, an assemblage of marine creatures including *Marella*, *Wiwaxia*, *Anomalocaris* and at least 10 other "weird wonders" belonging to no recognizable modern phylum. These are the famous fossils of the Burgess Shale, located in Western Canada. None of these fossils have appeared in the Great Lakes region, although I continue to dream.

This means there were more fundamental body plans existing early in the history of life than there were by the end of the Carboniferous. The Tully Monster is the last known "weird wonder," the last ancient body plan to disappear from the great array of existing life. Extinction has not merely wiped out species. Bad genes or bad luck have removed entire body plans from the lists. We live in a world made biologically poorer by the long history of earthly destruction of life. There is no longer a Tully Monster, and what is more important, there will never again be a creature like the Tully Monster. The earth has lost the blueprint.

So what? What is the significance here? If there are fewer phyla these days, there are certainly lots of plant and animal species occupying the niches of the current environment. Life has done quite well, evolving more animals based on fewer designs. Apart from ruffling the hair of a few — quite a few — hidebound scientists, why should Gould's conclusions be of any concern?

Simon Conway Morris, one of Gould's severest critics regarding the meaning in the Burgess Shale, believes that Gould aims, rather ominously, to

justify a world view that permits human beings to do as they wish with the planet. If decimation of maximal diversity is a rule of life, and there is no demonstrable reason why some phyla should go extinct while others survive — other than chance — then life itself must be a game of chance. What have we to lose by remaking the world's environment as we see fit?

I have read a lot of Gould's work, and as much as I read between the lines, I really cannot find evidence for such an exploitative utilitarian agenda underlying his interpretation. To Gould, life's history is a story of contingency and chance. We are here because our chordate progenitors made it through a host of extinctions; the dinosaurs and the trilobites and the Tully Monsters are gone because they did not. Life invented lots of body plans as multicellular animals developed; chance selected some, but not all, for survival and later speciation. There are lots of chordates and about a zillion arthropods out there, but no Tully Monsters. I fail to see how that gives us the green light to remake the planet to our own ecological ideal.

Fossils speak to everyone in the same mute language: we must make of them what we can. To me, as to Gould, the Tully Monster is a poignant reminder that the world can be most unkind. The monster was a successful little creature in its time, purposefully swimming among the swamp ferns, seeking out hapless prey to munch on. What happened to Tully was that the rules changed. Whatever forces coalesced to make an ecosystem comfortable for Tully did not last. Any number of things may have happened: volcanoes filling the atmosphere with noxious gas, climates going colder and

For more information

Stephen Jay Gould has published 10 collections of natural history essays with W.W. Norton & Co. Among them:

- Ever Since Darwin* (1977);
- The Panda's Thumb* (1980);
- Hen's Teeth and Horse's Toes* (1983);
- The Flamingo's Smile* (1985);
- Bully for Brontosaurus* (1991).

drier, massive earthquakes changing the course of rivers, leaving swamps high and dry. Somehow the environment changed, and the world was no longer safe for Tully Monsters. They disappeared at the end of the Carboniferous Epoch, 280 million years ago.

The implications, I think, are pretty clear. Species evolve and adapt to best take advantage of stable environmental conditions. But stability does not last forever. There are volcanoes and wandering tectonic plates, shifting ocean currents, variable climates, flying space debris. Such instability lies at the heart of Gould's punctuated equilibrium: Animals can sustain themselves for long periods so long as conditions are favorable. When something upsets the geologic applecart, the rules for survival can change abruptly. Some species make it through the disruption; others are not so lucky. Life becomes a virtual lottery.

In the present geologic moment, human beings are on the march, changing the nature of the environment in which we evolved. The climate is becoming warmer, the atmosphere less resistant to direct sunlight, the composition of air and water is being altered by the addition of chemicals. Not precisely a geologic disequilibrium, perhaps, but certainly an alteration to the comfortable world in which we developed.

Across the world, the rate of extinctions is accelerating. As the rules for survival change, the odds of any particular species pulling through become more and more chaney. This, I think, was the message Stephen Jay Gould heard from the weird wonders, the Tully Monsters of the remote past. There are no guarantees — not even for the human species.

The air outside is getting warmer, the water less potable, the soil more laden with unknowns. Nuclear winter, one of Stephen Gould's great modern concerns, remains a distinct possibility.

Listen carefully. Does anyone else hear a Tully Monster? □

Robert Kuhn McGregor, an environmental historian at the University of Illinois at Springfield, is a regular contributor to the magazine.

PEOPLE

Daniels bows out

House Republican Leader **Lee Daniels** of Elmhurst will not seek another term in that post, which he has held for two decades. Earlier this year, he resigned as chairman of the state GOP in the face of accusations that members of his staff had done campaign work on state time.

First elected to the House in 1974, Daniels says he wants to continue to represent his DuPage County district. He says he decided "with a heavy heart" to remove himself from leadership contention to help ensure unity in the GOP caucus.

Mentioned as possible replacements are deputy Republican leaders Rep. **Tom Cross** of Oswego and Rep. **Art Tenhouse** of Liberty.

Party leaders will be chosen in January when the new General Assembly is seated.



Shifts at the top

Dan Egler is the acting executive director of the Capital Development Board. He replaces **Kim Robinson**, who stepped down. In the deputy director slot, **Jan Grimes**, who had been an administrator, replaces Egler, a former *Chicago Tribune* reporter and spokesman for former Gov. Jim Edgar.

Stephen Schnorf, Bureau of the Budget director, is the interim director of Illinois' Department of Central Management Services. He replaced **Michael Schwartz**, who took early retirement. Former deputy director **Mike Colsch** is now interim budget director.

Schnorf had served as central management director under Edgar, who appointed him to head the budget bureau in 1997. Colsch, who had been deputy budget director since 1994, was the director of budget and debt management for the Metropolitan Pier and Exposition Authority, where he helped develop financing for the McCormick Place expansion.

Robert Winchester, the governor's deputy chief for southern Illinois from 1999 until his retirement last year, has been appointed to the Illinois Racing Board. The Whittington resident, who was appointed to a six-year term, replaces **Lorna Proops** of Chicago.

BIT

Roman Pucinski

Had his luck run a little differently, the media-savvy Chicagoan might have become one of the most powerful figures in Washington, D.C. Roman Pucinski, the seven-term congressman and longtime alderman, died September 25 at the age of 83.

"If he hadn't been victimized by reapportionment, I suspect he would have become one of the most powerful congressman in the United States," says Robert Davis, a veteran *Chicago Tribune* political reporter, who now teaches journalism at Columbia College and writes a column for *Illinois Issues*. "He would have been re-elected in perpetuity."

Pucinski, an articulate, thoroughly informed leader, could have become a media darling on the national stage just as he did in Chicago, contends Davis, who covered Pucinski during a period that began toward the end of his 1959-73 stint in Congress and ran until 1991 when the silver-headed leader lost his seat on the Chicago City Council.

The eloquent Pucinski, who had spent 20 years as a reporter at the *Chicago Sun-Times*, was a master at giving interviewers just the quote they needed. "He was a master of stating the obvious," Davis says.

Pucinski was an influential voice for the Polish community and a great politician, Davis says. "He knew his constituency and he knew what they wanted."

"Some days, you wish there were more politicians like him."

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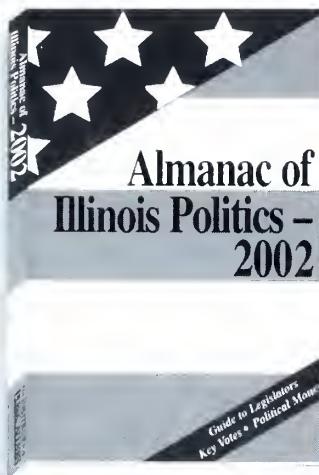
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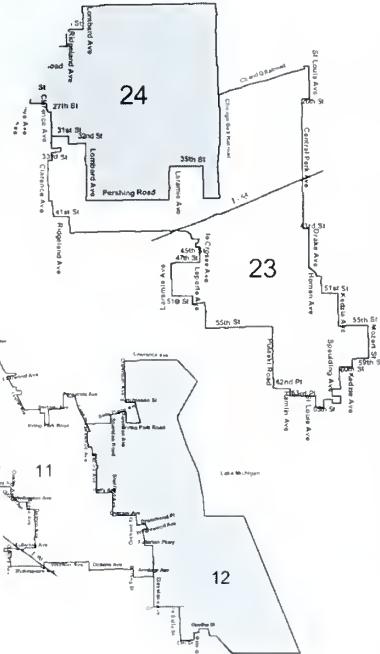


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Patrick E. Gauen



While the governor moans about the faults in the death penalty, a Madison County case stands apart

by Patrick E. Gauen

The van was green and clean, and those were reasons enough for police to pull Sherrell Towns from behind its steering wheel on the crisp morning of November 18, 1993, a half day after the worst mass murder in Madison County history. Not only did the vehicle fit the general description of one that left five bodies behind, but why would someone get a wash job on a sloppy day unless he was trying to erase muddy evidence of where it had been?

Towns, 20, of Washington Park, was soon charged with murder. He and two accomplices had tried to rob four drug dealers in a mobile home outside Madison, bound them and shot them in the head, police surmised. Then, in the mistaken belief that a next door neighbor was holding the dead men's cash, the frustrated killers shot a fifth victim to death in front of his girlfriend's three children, ages 1, 3 and 7.

Now, nine years later, Towns is on Death Row, awaiting his turn. Not just his turn to die, but his turn to plead for the Prisoner Review Board to recommend that Gov. George Ryan spare his life. It's part of a process by which the very-lame-duck governor seems to be careening through the death penalty controversy in search of a legacy. He halted all executions out of lack of confidence in the courts. Then he impaneled a committee to recommend reforms.

Up to that point, David Thompson Sr. agreed with his governor. Thirteen men

had walked free from Death Row because reviews found them to be wrongly convicted — in some cases proved innocent. "I supported him in that," explains Thompson, who lives in Edwardsville. "Generally, I'm not in favor of the death penalty anyway, unless the crime is extremely heinous, of great magnitude."

But then Ryan suggested he might just commute all the death sentences to life in prison — regardless of the review board's findings — if the legislature doesn't overhaul the system. That logic left Thompson behind.

"I don't know what he is trying to do with this blanket approach," the retired fourth-grade teacher says. "It would make sense to review them on a case-by-case basis. But not like this."

Thompson has a special interest here. His only son and namesake, David Thompson Jr., who was 22, lay bound in the trailer that night, listening to his three friends die one by one, until a bullet came for him too. "He was no angel," his father says. "But he did not deserve to die like that."

Death for Towns is the only justice, according to Thompson, who planned to say so in Springfield at the clemency hearing. "I would be crushed. I would be devastated if he got life without parole instead," he says.

Indeed, while Ryan moans that it's too easy for prosecutors to steamroll inexperienced defense lawyers and sandbag juries with lies from jailhouse

snitches, the Towns case stands apart. This defendant wasn't fingered by a cellmate out to make a deal, or by a well-intended but myopic witness. He was convicted because his fingerprints were on the duct tape that bound the victims. Inside and outside the tape, in fact. His best explanation in court: "I ain't never been there. How could my fingerprints be on something when I never been there?"

Nobody suggested he was mentally retarded. The crime was shocking in magnitude and cruelty. It was driven by raw greed. Towns was represented by well-seasoned defense counsel. It took jurors only one hour to convict him, and just one hour more to decide he should pay with his own life, five times over. Far from remorseful, Towns was later quoted as saying he regretted not killing the children to eliminate the only witnesses.

Illinois Supreme Court Justice Charles Freeman wrote in denying an appeal in 1997 that Towns "displayed a chilling lack of rehabilitative potential."

Ryan worries about what to say to the nearly 160 people condemned by a process he does not trust. But what will he say to the 1,900 jurors who agonized over condemning them? What would he say to Andrew Kokoraleis, whose execution in 1999 Ryan did not stop in a case that seemed less certain than the one against Towns? And what does he say to David Thompson Sr.? □

Patrick E. Gauen writes an Illinois column for the St. Louis Post-Dispatch.

Mike Morsch



The state launched a Self-Exclusion Program for addicted gamblers. Will they know when to fold 'em?

by Mike Morsch

The state could well be Illinois' biggest bookie. In fact, gambling is big business here, and has been for quite some time.

So much so that recent legislation signed by Gov. George Ryan increasing riverboat gambling taxes will raise an estimated \$134 million for the state, according to the Illinois comptroller's office. That money is expected to help offset a big budget shortfall.

But Illinois appears to be trying to do right by its gamblers, as well. This summer, the Illinois Gaming Board launched a Self-Exclusion Program (I would have suggested a more marketable name, such as the "Know When to Fold 'Em Program," but I wasn't consulted) that "allows persons who have determined they are problem gamblers to self-exclude themselves from all Illinois casinos."

What a novel concept: Throwing yourself out of the game.

But this could present a problem, especially for those unable to give themselves the old heave-ho.

According to the Illinois Institute for Addiction Recovery based in Peoria, a "compulsive gambler" is one who "cannot stop gambling no matter how much they want to or how hard they try."

Is it not a stretch, then, for the state to expect compulsive gamblers to be able to exclude themselves from Illinois casinos? Apparently not, according to

I would suggest the program offer a piece of rope so that participants can tie themselves to lampposts outside the casinos to prevent them from going in, but I'll wager the state wouldn't do that.

Rick Zehr, vice president of addiction and behavioral sciences at the Illinois Institute for Addiction Recovery, which, by the way, receives no state or federal funds for its activities.

Zehr says this program is the state's way of saying, "be responsible" when it comes to gambling. The Self-Exclusion Program is totally voluntary. A person cannot exclude a spouse or significant other. If a self-excluded person is found including himself or herself among the legions of Illinois gamblers, then that person must forfeit any booty to a charity of his or her choice, preferably not one called "Back-in-My-Own-Pocket Soup and Breadline."

We've had gamblers in my family. There always seem to be a few euchre games going at every family

get-together, but those games are merely the precursor to the poker games.

Ah, the poker games. It's said that as a youngster, I wandered down into the basement during one of the Sunday afternoon games. My grandfather, always the master no matter whose house it was, grabbed a \$1 bill out of the kitty and gave it to me. His sons, at least eight of the nine (my father excluded, of course) protested that the old man was taking potential earnings out of their pockets, and a screaming match ensued. I'm told I got to keep the dollar, which I no doubt gave back to the local economies of Peoria or Alton or East St. Louis some 40 years later.

Not until recently, though, did I have a chance to participate in the family poker game. Three generations of the family were represented, including three sons, four grandsons and one great-grandson of the old man.

The star of any poker game always has been my Uncle Pancho. He's loud, funny and always seems to win money. He's worth every wager in entertainment value alone.

Pancho is apparently also a star at the Par-A-Dice Hotel Casino in East Peoria. He had warmed up for the recent family poker game that evening by taking home several thousand dollars in a slot tournament that afternoon on the riverboat, or so he said. He finished the evening by taking several nickels, dimes and quarters from

subsequent generations of the family's menfolk.

I never looked at any of my relatives as compulsive gamblers, and I'm pretty sure I know what the answer would be if I suggested to any of them that they enroll in the state's Self-Exclusion Program: They would immediately lay odds on the over-under number of people who actually would enroll in the program. Uncle Pancho would win, of course.

But they might be surprised at the numbers. According to Gene O'Shea, acting Self-Exclusion Program director and public information officer for the Illinois Gaming Board, the state's program is modeled after one in Missouri.

The Missouri program had 37 people sign up during its first year of operation. Since October 1, those wishing to enroll in the Illinois Self-Exclusion Program have been able to do so at all Illinois Gaming Board offices located at all riverboat casinos. O'Shea says there were 82 people signed up through mid-October, and he expects between 500 and 1,000 to sign up for the program in its first year.

To enroll, a person must make an appointment (1-877-YOU-QUIT) to visit a designated Illinois Gaming Board office to complete the necessary forms. Candidates must present a valid driver's license or state-issued identification card to complete the process. Then all they have to do is stay away from the gambling boats.

I would suggest the program offer a piece of rope so that participants can tie themselves to lampposts outside the casinos to prevent them from going in, but I'll wager the state wouldn't do that, if for no other reason than to avoid the inevitable headline, "Give a man enough rope."

At this point, it looks as if Illinois is providing a viable option for those addicted to gambling. If I were betting, I'd lean toward the program being an odds-on favorite to succeed. But, just to be sure, like any gambler, I'd like a bit more of an edge.

"Hello, Uncle Pancho... ." □

Mike Morsch can be reached at 217-206-6521 or by e-mail at morsch.michael@uis.edu.



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Charles N. Wheeler III



Were the candidates for governor liars or were they fools?

by Charles N. Wheeler III

Listening to the two major party candidates for governor declaim about the state's financial woes, savvy Illinoisans might well wonder: Are these guys as fiscally ignorant as they sound, or are they merely dissembling for the sake of political expediency?

Let's review the evidence: Both Democrat Rod Blagojevich and Republican Jim Ryan have promised to veto any income or sales tax increase. Both have promised to increase spending, in some cases for their own initiatives, in others to restore cuts to existing programs. Both say they'll still make ends meet in fiscal year 2004 — the first budget the winner will sign — by reordering priorities, cutting waste and bureaucracy, eliminating pork-barrel spending (aka member initiatives) and growing the state economy.

Sure. As Rep. Gary Hannig so aptly put it, "We were just wondering what world those guys are in." The Litchfield Democrat, his caucus' budget expert, provided his own answer. "They're in the political world. We're in the real world."

In the real world of Illinois finance, things aren't as cheerful as the two candidates would have voters believe. The budget enacted last June anticipated \$725 million in red ink, based on ending FY 2003 with \$275 million in general funds to cover \$1 billion in outstanding bills.

That prediction now seems optimistic. Through the first three months of this fiscal year, revenues essentially have

In the real world of Illinois finance, things aren't as cheerful as the two candidates would have voters believe. The budget enacted last June anticipated \$725 million in red ink. That prediction now seems optimistic.

been flat. Income and sales taxes, projected to increase by \$774 million in FY 2003, were down \$28 million. On the spending side, health care costs — both for Medicaid and for state employee group insurance — were running higher than anticipated and could cost the state an additional \$300 million in FY 2003. The bottom line, according to fiscal experts, is that the deficit built into the current budget could be greater than expected by \$500 million or more.

Fast forward to February when the new governor presents his budget for the fiscal year starting next July 1. Revenue growth again is likely to be modest, perhaps 3 percent or so, which would mean around \$600 million in new general funds revenue. But both candidates

have pledged to channel at least 51 percent to education, leaving \$294 million for higher spending in everything else bankrolled with general funds. Increases in areas such as pensions and debt service are unavoidable, unless laws are changed or the state reneges on its word. Add in likely growth in Medicaid and group insurance spending, and the FY 2004 budget hole could be as high as \$2.5 billion, fiscal experts caution.

Neither gubernatorial candidate has provided specifics on how he'd deal with the budget meltdown, so one is left to consider the generalities they've offered:

- Reprioritize. The state's current general funds budget stands at \$22.3 billion. The highest spending priority is aid to local school districts, at \$6.1 billion. More than \$4.9 billion is set aside for Medicaid and another \$800 million for group insurance for state workers. Other big-ticket areas include \$1.8 billion to purchase community care for the mentally ill and developmentally disabled, home care for the handicapped and similar services. Almost \$600 million will go for operating state mental health and developmental facilities. Welfare-to-work programs account for more than \$700 million. More than \$1.2 billion is set for the state's prison system, and another \$195 million for the state police. Higher education will get some \$2.5 billion.

Which of these programs would the candidates declare no longer a priority? Or, if all remain priorities, where are the

savings? Added together, the outlays total \$18.8 billion, about 85 percent of general funds appropriations. The other \$3.5 billion pays for everything from the governor's salary to the light bill at the James R. Thompson Center in Chicago. More than 70 percent of those expenses would have to be pared to cover a \$2.5 billion deficit.

- Eliminate waste and bureaucracy. Roughly 70 percent of the \$22.3 billion general funds appropriation is designated for awards and grants, money sent to other entities such as school districts or Medicaid providers. Most of the rest pays for state operations, including salaries. Neither candidate has identified which bureaucrats he'd cut, but both have suggested possible areas, such as middle management at the Department of Corrections. Eliminating every job in the department's central office, though, would save only about \$26 million, less than the \$28 million needed to reopen the Sheridan Correctional Center, as both have promised to do.

The story is the same throughout the budget. Even assuming salaries and

***So does that mean a tax increase is inevitable?
Not necessarily, if the new governor and the new legislature are willing to make the painfully deep cuts needed to make ends meet.***

benefits averaging \$100,000, there simply aren't the 25,000 middle management jobs to ax to close a \$2.5 billion budget hole.

- Ban member initiatives. While the budget contains \$105 million for projects from the main account used for member initiatives, the money is not part of the current general funds spending base. Once it's spent, it's gone, and won't be there to reallocate.

- Grow the economy. A noble goal, but the odds seem long that either candidate could do anything dramatic

enough to show results within the few months he'd have before a budget would need to be in place.

So does that mean a tax increase is inevitable? Not necessarily, if the new governor and the new legislature are willing to make the painfully deep cuts needed to make ends meet. The list might include freezing school aid, eliminating some health services for the poor, closing additional prisons and mental health centers, or other draconian measures.

What's important, though, is that voters know before the election the choices each candidate would make, which taxes he'd raise, which programs he'd cut or what combination of the two he'd pursue to restore fiscal order. Absent such candor, the question persists at the end of this campaign: Were they liars or were they fools? Neither alternative seems likely to inspire confidence in the next governor. □

Charles N. Wheeler III is director of the Public Affairs Reporting Program at the University of Illinois at Springfield.

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Charles N Wheeler III



Were the candidates for governor liars or were they fools?

by Charles N. Wheeler III

Listening to the two major party candidates for governor declaim about the state's financial woes, savvy Illinoisans might well wonder: Are these guys as fiscally ignorant as they sound, or are they merely dissembling for the sake of political expediency?

Let's review the evidence: Both Democrat Rod Blagojevich and Republican Jim Ryan have promised to veto any income or sales tax increase. Both have promised to increase

In the real world of Illinois finance, things aren't as cheerful as the two candidates would have voters believe. The budget enacted last June anticipated \$725 million in red ink.

have pledged to channel at least 51 percent to education, leaving \$294 million for higher spending in everything else bankrolled with general funds. Increases in areas such as pensions and debt service are unavoidable, unless laws are changed or the state reneges on its word. Add in likely growth in Medicaid and group insurance spending, and the FY 2004 budget hole could be as high as \$2.5 billion, fiscal experts caution.

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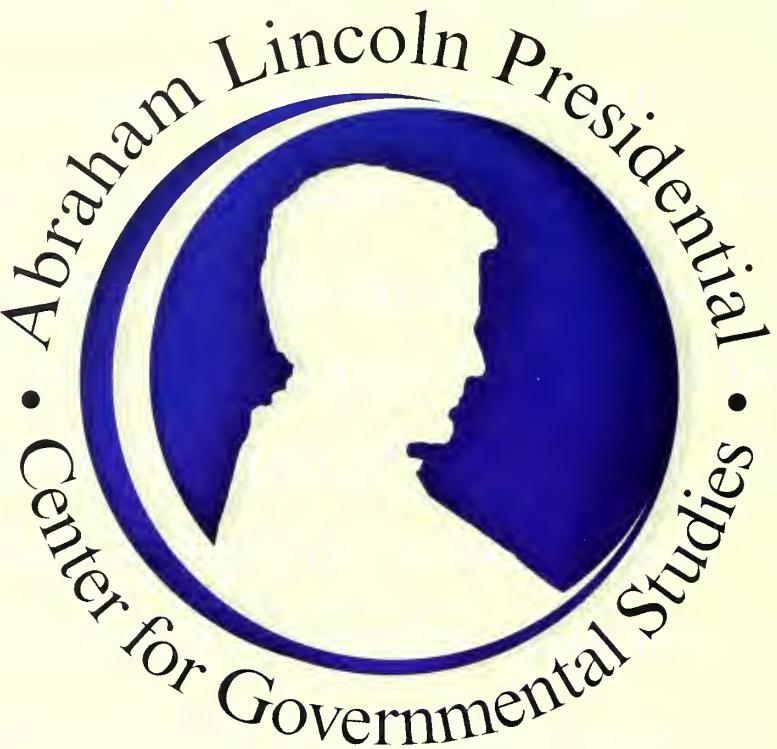


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Abraham Lincoln

December 3, 1861

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